



CITY OF

NEWPORT BEACH

City Council Staff Report

June 8, 2021
Agenda Item No. 16

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

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TITLE: Resolution No. 2021-53 Resolution of Intention to Disestablish the
Newport Beach Restaurant Association Business Improvement
District and Fix the Time and Place of Public Hearing

ABSTRACT:

Per the direction the City Council provided at its May 11, 2021 meeting, staff is returning with a Resolution of Intention to Disestablish the Newport Beach Restaurant Association Business Improvement District (NBRA BID) and a proposal on how to dispose of the NBRA BID's assets.

RECOMMENDATION:

- a) Determine this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because this action will not result in a physical change to the environment, directly or indirectly;
- b) Approve the Proposed Plan to Dispose of the Newport Beach Restaurant Association Business Improvement District's Assets; and
- c) Adopt Resolution No. 2021-53, *A Resolution of the City Council of the City of Newport Beach, California, Declaring Its Intention to Disestablish the Newport Beach Restaurant Association Business Improvement District and Fix the Time and Place of Public Hearing.*

DISCUSSION:

The Newport Beach Restaurant Association Business Improvement District (NBRA BID) was formed in 1995 (Ordinance 95-55) pursuant to the Parking and Business Improvement Area Law of 1989 (1989 Law), codified in Streets and Highways Code Sections 36500 et seq., for the purpose of financing activities and programs to benefit businesses located and operating in the area. The NBRA BID encompasses any food service business within the boundaries of the City of Newport Beach (City), such as restaurants, markets with dine-in or take-out service, bars serving food, dessert shops, coffee shops, juice bars, catering companies, or similar food-related businesses.

The NBRA BID is nearing the end of its FY 2020-21 operating period and staff is returning with a proposal on how to dispose of the NBRA BID's assets, per the direction provided by the City Council at its May 11, 2021 meeting. Pursuant to the 1989 Law, a plan on how to dispose of assets must be prepared and filed with the City Council and a public hearing must be held prior to the BID's disestablishment. If the City Council adopts the Resolution of Intention, the public hearing will be held on July 13, 2021.

Fiscal Year 2020-21 Operating Results

The estimated year-end operating budget for the NBRA BID's FY 2020-21 is reflected in the table below.

Estimated FY 2020-21 Year-End Operating Budget	
Stakeholder Assessments (Net Late Fees)	\$132,719
Bad Debt (Uncollectible Assessments Due to Closures)	-\$49,375
City COVID Economic Relief & Special Event Grant Funding	\$49,000
Total Income	\$132,344
Total Expenditures	\$208,622
End of Year Balance	-\$76,278
Use of Reserves	\$76,278
End of Year Balance (Retained Earnings)	\$0

The NBRA BID has set aside year-end balances since 2016 into a reserve. As of April 30, 2021, the NBRA BID's Reserve Account includes cash reserves totaling an estimated \$174,131. After using roughly \$76,278 from cash reserves to fill the revenue shortfall in FY 2020-21, and removing the uncollectable accounts receivables, NBRA BID is projected to end FY 2020-21 with cash reserves totaling an estimated \$97,853.

Proposed Disestablishment

- **BID Funds:** Per the 1989 Law, any remaining revenues derived from the levy of assessments shall be refunded to the owners of the businesses operating within the BID, that are current in their annual assessment, by applying the same method and basis that was used to calculate the assessment levied this fiscal year. As previously mentioned, the NBRA BID would have an estimated \$97,853 remaining in its account at the end of FY 2020-21. Staff proposes that all the remaining funds in the NBRA BID account at the end of FY 2020-21 be refunded to the stakeholders, per the 1989 Law.
- **Physical Assets:** The NBRA BID has no physical assets.

Resolution of Intention

The Resolution of Intention (Attachment A) for the NBRA BID provides for the following:

- Disestablishes the Newport Beach Restaurant Association Business Improvement District at the end of FY 2020-21.
- Sets the public hearing for July 13, 2021 at 4 p.m. or as soon thereafter the matter may be heard that evening.

Per the 1989 Law, a resolution of intention to disestablish the NBRA BID must be adopted by the City Council prior to holding a public hearing and considering the adoption of an ordinance formally disestablishing the NBRA BID. The City Council may revise, change, or modify the Newport Beach Restaurant Association Business Improvement District Plan to Dispose of Assets.

FISCAL IMPACT:

City staff will work with the NBRA BID administrators to refund the assessments to the NBRA BID stakeholders and to close the NBRA BID financial accounts once the BID is formally disestablished.

ENVIRONMENTAL REVIEW:

Staff recommends the City Council find this action is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

NOTICING:

The agenda item has been noticed according to the Brown Act (72 hours in advance of the meeting at which the City Council considers the item).

ATTACHMENT:

Attachment A – Resolution No. 2021-53