

City of Brisbane

Agenda Report

TO: Honorable Mayor and City Council

FROM: Director of Public Works/City Engineer via City Manager

DATE: Meeting of July 5, 2011

SUBJECT: Public Hearing on Imposition of Fiscal Year 2011-2012 Tax Roll Charges for the Sierra Point Landscaping and Lighting District

City Council Goals:

To provide for effective and efficient delivery of City Services (1)

To maintain and improve infrastructure (3)

To develop management and fiscal systems to maximize effectiveness of City services and accountability to Brisbane taxpayers and citizens (11)

Purpose:

To complete the process via a public hearing for the imposition of annual tax roll charges that fund Sierra Point's Landscape and Lighting Assessment District, which provides for maintenance of the landscaping, irrigation and lighting installed in 1989.

Recommendation: The following procedures and actions are recommended:

1. Statement of the Engineer of Record as to the nature of the project.
2. Mayor's statement and declaration that the Public Hearing is open (see Attachment A).
3. Statement by the City Clerk verifying that the Certificate of Posting and the Resolution of Intention is on file (see Attachment B), followed by the reading of any written protests by the City Clerk.
4. Hearing of oral testimony and comments.
5. Closure of Public Hearing.
6. By motion, adoption of Resolution No. 2011-31, Overruling Protests and Ordering the Improvements and Confirming the Diagram and Assessment for Fiscal Year 2011-2012 for the Sierra Point Landscaping and Lighting District.

Background:

At its June 20th meeting, the City Council adopted Resolution No. 2011-26, a Resolution of Preliminary Approval of Engineer's Report, and Resolution No. 2011-27, a Resolution of Intention to Order the Levy and Collection of Assessments Pursuant to the Landscaping and Lighting Act of 1972, pertaining to the Sierra Point Landscaping and Lighting District, Fiscal Year 2011-2012. This year's assessment includes an increase, upon passage of a Proposition 218 vote this spring, to offset previous year deficits.

In accordance with state law, joint notice of both the public meeting and the public hearing were mailed to all affected property owners and was posted at City Hall, Brisbane Community Center, Brisbane Public Library and Mission Blue Center. The preliminarily approved Engineer's Report is attached. As of June 30, 2011, no written protests had been received.

Discussion:

In addition to the routine maintenance provided within the district, the revenue received also funds special projects such as the necessary replacement of the north and east shoreline Myoporum that have fallen victim to an invasive pest, the Klambo Thrip Myopori. Efforts over the last few years to control this invasion using Integrated Pest Management (non-pesticide) techniques have failed.

A first phase of the landscape architect designed tree replacement plan will be implemented this fall. The plan consists of removal of existing trees and replacement with trees that are not vulnerable to this pest, including native trees and trees on the city's approved street tree list (i.e., Toyon, Cajeput, and New Zealand Christmas Tree), flowering trees that attract native California bees (Toyon [again], Australian Tee Tree, trees that serve as a windscreen for the marina and do well with salt spray (i.e., Monterey Cypress, Pink Melaleuca), and trees that meet the approval of the San Francisco Bay Conservation and Development Commission (BCDC). The replacements are expected to be completed over a three year period.

Fiscal Impact:

This is an annually occurring process, which provides the funding mechanism for the work completed within the landscaping and lighting district. If the Council declined to order and levy the collection of assessments, there would be no identified revenue source for the work scheduled in this District.

Attachments:

- A – Opening Statement by the Mayor of the City of Brisbane
- B – Clerk's Statement
- C – Engineer's Report, including Zone 1 and Zone 2 Assessment Diagrams
- Resolution No. 2011-31



Director of Public Works/City Engineer

City Manager

**OPENING STATEMENT BY THE MAYOR
OF THE CITY OF BRISBANE**

JULY 5, 2011

SIERRA POINT LANDSCAPING AND LIGHTING DISTRICT

This is the time and place set for hearing on the Engineer's Report and the levy and collection of the proposed assessment for Fiscal Year 2011-2012 for the Sierra Point Landscaping and Lighting District. These proceedings were undertaken pursuant to the Landscaping and Lighting Act of 1972.

The Engineer's Report prepared by the Engineer of Work consists of the proposed improvements, the boundaries of the Assessment District and any zones therein, the proposed diagram, the estimate of cost thereof and the proposed assessments upon assessable lots and parcels of land within the District. Any one of these items may be the subject of protests or endorsements.

You are asked to clearly identify yourself and the property owned by you so that your statements may be correctly recorded.

The hearing is declared open and I will ask the City Clerk to report on the various notices given in connection with the hearing.

ATTACHMENT A

CLERK'S STATEMENT

JULY 5, 2012

**SIERRA POINT
LANDSCAPING AND LIGHTING DISTRICT**

Notices have been mailed and posted as required by the Landscaping and Lighting Act of 1972. Proofs of mailing and posting are on file in my office. A copy of the Engineer's Report prepared by the Engineer of Work was filed in my office on June 13, 2011, and has been open to public inspection since that time.

ATTACHMENT B

CITY OF BRISBANE

SIERRA POINT

LANDSCAPING AND LIGHTING DISTRICT

ENGINEER'S REPORT

on the
Levy of an Assessment
for the
2011 - 2012 Fiscal Year

Prepared by

Karen Kinser, P.E.
Senior Civil Engineer

June 13, 2011

I. BACKGROUND

In 1983, the Brisbane City Council determined to undertake proceedings under the provisions of Division 15, Part 2, of the California Streets and Highways Code, entitled "Landscaping and Lighting Act of 1972", for the formation of an assessment district for the purpose of constructing, installing, maintaining and servicing the following facilities within said district:

- a) Public landscaping, including trees, shrubs, grass, other vegetation, and irrigation facilities.
- b) Public lighting facilities, including standards, poles, and electric current or energy.

The proposed district was designated the "Sierra Point Landscaping and Lighting District".

This report was prepared pursuant to a City Council resolution ordering the engineer to prepare and file a report covering the 2011 - 2012 fiscal year.

II. PLANS AND SPECIFICATIONS

The original plans and specifications for the assessment district have been separately bound but are incorporated herein by this reference thereto.

III. ESTIMATE OF COSTS

The costs of this assessment district for the 2011 - 2012 fiscal year are estimated to be as follows:

ZONE 1 & 2 CONSTRUCTION & MAINTENANCE

		FY 11/12
	Employee salaries & fringes	117,356
54250	Indirect costs	104,163
	Maintenance & Servicing Costs (see detail)	258,960
	Misc. Services & Supplies (see detail)	13,897
	Offset previous year deficits	43,603
	TOTAL ZONE 1 & 2	\$537,979

MAINTENANCE & SERVICING COSTS (Detail)

		FY 11/12
52200	Safety Clothing	1,200
52231	Gas & oil for vehicles	5,136
	Mobile radio, field equip. repair & maint.	1,000
	Auto & truck repair & maintenance	4,030
	Tire & tire repair	471
	Field equipment repair and maintenance	763
52232	Contract landscape maintenance	36,540
	Pest Control	12,000
	Myoporum replacement	21,470
	Tree trimming/replacement	8,995
	Plants, shrubs and other vegetation	5,030
	Street light repair & maintenance	4,000
	Fertilizer, stakes, seed, compost	2,000
	Irrigation supplies	3,000
52236	Equipment rental	3,000
52242	Small tools and supplies	325
52244	Electricity and water	150,000
	Total Maintenance & Servicing Costs	\$258,960

MISC. SERVICES & SUPPLIES (Detail)

		FY 11/12
52233	Memberships	100
52221	Communications	750
52231	Office equipment repair & maintenance	600
52234	Printing & forms	200
52235	Assessment Engineering	1,000
	Legal Counsel	1,800
52243	Travel and training	100
51800	Liability Insurance	4,939
51810	Worker's Compensation	4,408
	Total misc. services & supplies	\$13,897

IV. DIAGRAM


The diagram for this assessment district has been separately bound but is incorporated herein by this reference thereto.

V. ASSESSMENT

The assessments to be made against the assessable lots and parcels of land within this assessment district are attached hereto and are a part of this report.

Respectfully submitted,

Dated JUNE 13, 2011



Karen Kinser, P.E.
Senior Civil Engineer

Filed in the office of the City Clerk of the City of Brisbane, San Mateo County,
California, this _____ day of _____, 2011.

Sheri Marie Spediacci
City Clerk

Filed in the office of the County Controller-Auditor of the County of San Mateo,
California, this _____ day of _____, 2011.

Tom Huening
County Controller

ASSESSMENT ROLL

<u>ASSESSMENT NUMBER</u>	<u>ASSESSOR'S PARCEL NUMBER</u>	<u>PARCEL AREA, AC.</u>	<u>ASSESSMENT</u>
<u>ZONE 1</u>			
A 1	007—165—010	4.52	\$22,891
A 2	007—165—020	8.87	44,922
A 3	007—165—110	3.44	17,422
A 4	007—165—050	6.13	31,044
A 5	007—164—020	5.66	28,664
A 6	007—164—010	10.20	51,657
A 7	007—165—080	5.78	29,273
A 8	007—165—090	9.09	46,036
A 9	007—165—100	7.98	40,414
A 10	007—163—030	3.52	17,827
A 11	007—163—040	3.08	15,598
A 12	007—165—120	4.56	23,095
C 1	015—010—530	Note ¹	0
C 2	015—010—560	6.92	35,046
C 3	015—010—570	8.57	43,402
C 4	015—010—580	8.56	43,351
C 5	015—010—610	2.41	12,206
	Subtotals	99.29	\$502,848

¹ Although previously assessed, this parcel is owned by California State Lands Commission, which is exempt from local assessments.

ZONE 2

B 1	None (placeholder only)		-0-
B 2	005—162—430 (Ptn)	15.2	6,535
B 3	005—162—300	66.5	28,596
B 4	005—162—400 (Ptn)	Note ²	-0-
B 5	005—162—410 (Ptn)	0.2 ³	-0-
B 6	005—162—390	Note ⁴	-0-
B 7	005—162—420 (Ptn)	Note ⁴	-0-
	Subtotals	81.7	\$ 35,131
	Totals	180.99	\$537,979

² This portion of this parcel is private land over which the public has been granted access for use as the street, Tunnel Avenue.

³ No assessment has been imposed for a value less than \$100.

⁴ B6 and B7 are publicly owned portions of Tunnel Avenue.

METHOD OF ASSESSMENT SPREAD

The amounts to be assessed against the parcels of property to pay the costs and expenses of the work and improvements shall be based on the estimated benefits to be derived by the various properties within the assessment district.

Construction and maintenance costs shall be segregated by zone, then spread to the parcels within each zone in proportion to the area of the benefited parcels within the zone.

Incidental expenses shall be spread proportional to the area of benefited parcels within the assessment district.

Due to the County Auditor's requirement that individual parcel assessments be rounded to the nearest even cent, the total of said individual assessments may not exactly equal the total estimate of costs.

NAMES AND ADDRESSES OF OWNERS

<u>ASSESSMENT NUMBER</u>	<u>ASSESSEE</u>
A 1	Fund Viii 1000 Marina LLC Attn: TA Associates Realty 1301 Dove St., Ste. 860 Newport Beach, CA 92660
A 2	Sierra Point LLC C/O Opus 10350 Bren Rd. West Minnetonka, MN 55343-9014
A 5	Diamond Marina LLC 2000 Sierra Point Parkway #100 Brisbane, CA 94005
A 3 A12	Sri Seven Marina LLC c/o Shorenstein Prop LLC 235 Montgomery St., 16 th Floor San Francisco, CA 94104
A 4	Tuntex Properties, Inc. 150 Executive Park Blvd. #4200 San Francisco, CA 94134
A 6	2000 Sierra Point Parkway LLC Attn: Diamond Investment Properties, Inc. 2000 Sierra Point Pkwy., Ste. 100 Brisbane, CA 94005
A7 A8 A9	Slough Brisbane LLC c/o Thomson Property Tax Service 2235 Faraday Ave., Suite O Carlsbad, CA 92008
A 10	Brisbane Lodging LP Attn: Leslye Diener 9100 E Panorama Dr., Ste. 300 Englewood, CO 80112
A 11	CPI Sage Hotels Brisbane Owner LLC Attn: Shanna Lehman 2235 Faraday Avenue, Suite O Carlsbad, CA 92008

B 2 Oyster Point Properties, Inc.
B 3 c/o Tuntex Properties, Inc.
B 4 150 Executive Park Blvd. #4200
B 5 San Francisco, CA 94134-3332

B 6 City of Brisbane
B 7 50 Park Place
Brisbane, CA 94005

C 1 State of California
C/O State Lands Commission
Attn: Title Unit
100 Howe Ave., Ste. 100
Sacramento, CA 95825

C 2 OIK Sierra Point LLC
C/O Real Estate Capital Partners
Attn: Michael Fruchtman
114 W 47th St. 23rd Floor
New York, NY 10036

C 3 ARE San Francisco No. 17 LLC
C/O Deloitte & Touche
Attn: Shanna Lehman
2235 Faraday Avenue Suite O
Carlsbad, CA 92008

C 4 Areus Inc.
5000 Shoreline Ct
South San Francisco, CA 94080

C 5 Sierra Point Ten LP
C/O Tim Fritz
3500 American Blvd.
Bloomington, MN 55431

RESOLUTION NO. 2011-31

**A RESOLUTION OVERRULING PROTESTS AND ORDERING THE
IMPROVEMENTS AND CONFIRMING THE DIAGRAM AND ASSESSMENTS**

FISCAL YEAR 2011-2012

**SIERRA POINT
LANDSCAPING AND LIGHTING DISTRICT**

RESOLVED, by the City Council of the City of Brisbane, California, as follows:

WHEREAS, on the 16^h day of May, 2011 said Council adopted its Resolution No. 2011-20, Describing Improvements and Directing Preparation of Engineer's Report for Fiscal Year 2011-2012 for the Sierra Point Landscaping and Lighting District Pursuant to the Landscaping and Lighting Act of 1972, and directed the Engineer of Record to prepare and file with the Clerk of this City a written report called for under said Act and by said Resolution No. 2011-20;

WHEREAS, said report was duly made and filed with the Clerk of said City, whereupon said Clerk presented it to the City Council for its consideration;

WHEREAS, said Council thereupon duly considered said report and each and every part thereof and found that it contained all the matters and things called for by the provisions of said Act and said Resolution No. 2011-20, including (1) plans and specifications of the existing improvements and the proposed new improvements; (2) estimate of costs; (3) diagram of the District; and (4) an assessment according to benefits; all of which were done in the form and manner required by said Act;

WHEREAS, said Council found that said report and each and every part thereof was sufficient in every particular detail and determined that it should stand as the report for all subsequent proceedings under said Act, whereupon said Council pursuant to the requirements of said Act, appointed Tuesday, the 5th day of July, 2011, at the hour of 7:30 p.m. of said day in the Brisbane Community Meeting Room, 50 Park Place, Brisbane, California, 94005 as the time and place for hearing protests in relation to the levy and collection of the proposed assessments for said improvements, including the maintenance or servicing, or both, thereof, for Fiscal Year 2011-2012 and directing said Clerk to give notice of said hearing as required by said Act;

WHEREAS, it appears that notices of said hearing were duly and regularly mailed, published and posted in the time, form and manner required by said Act, as evidenced by the Affidavits and Certificates on file with said Clerk, whereupon said hearing was duly and regularly held at the time and place stated in said notice;

WHEREAS, persons interested, objecting to said improvements, including the maintenance or servicing, or both, thereof, or to the extent of the assessment district, or any zones therein, or to the proposed assessment or diagram or to the Engineer's estimate of costs thereof, filed written protests with the Clerk of said City at or before the conclusion of said hearing, and

all persons interested desiring to be heard were given an opportunity to be heard, and all matters and things were pertaining to the levy and collection of the assessments for said improvements, including the maintenance or servicing, or both, thereof, were fully heard and considered by said Council; and

NOW, THEREFORE, IT IS HEREBY FOUND, DETERMINED and ORDERED, as follows:

1. That protests against said improvements, including the maintenance or servicing, or both, thereof, or to the extent of the assessment district or any zones therein, or to the proposed assessment or diagram, or to the Engineer's estimate of costs thereof, for Fiscal Year 2011-2012 be, and each of them are, hereby overruled.

2. That the public interest, convenience and necessity require and said Council does hereby order the levy and collection of assessments pursuant to said Act, for the construction or installation of the improvements, including the maintenance or servicing, or both, thereof, more particularly described in said Engineer's Report and made a part hereof by reference thereto.

3. That the Sierra Point Landscaping and Lighting District and the boundaries thereof benefited and to be assessed for said costs for the construction or installation of the improvements, including the maintenance or servicing, or both, thereof, are situated in Brisbane, California, and are more particularly described by reference to a map thereof on file in the Office of the Clerk of said City. Said map indicates by a boundary line the extent of the territory included in said district and of any zone thereof and the general location of said District.

4. That the plans and specifications for the existing improvements and for the proposed improvements to be made within the assessment district or within any zone thereof contained in said report, be, and they are, hereby finally adopted and approved.

5. That the Engineer's estimate of the itemized and total costs and expenses of said improvements, maintenance and servicing thereof, and of the incidental expenses in connection therewith, contained in said report, be, and it is hereby, finally adopted and approved.

6. That the public interest and convenience require, and said Council does hereby order the improvements to be made as described in and in accordance with said Engineer's Report, reference to which is hereby made for a more particular description of said improvements.

7. That the diagram showing the exterior boundaries of the assessment district referred to and described in said Resolution No. 2011-20, and also the boundaries of any zones therein and the lines and dimensions of each lot or parcel of land within said District as such lot or parcel of land is shown on the County Assessor's maps for the fiscal year to which it applies, each of which lot or parcel of land has been given a separate number upon said diagram, as contained in said report, be, and it is hereby, finally approved and confirmed.

8. That the assessment of the total amount of the costs and expenses of the said improvements upon the several lots or parcels of land in said District in proportion to the

estimated benefits to be received by such lots or parcels, respectively, from said improvements, and the maintenance or servicing, or both, thereof and of the expenses incidental thereto contained in said report be, and the same is hereby, finally approved and confirmed.

9. That said Engineer's Report for Fiscal Year 2011-2012 be, and the same is, hereby finally adopted and approved as a whole.

10. That the City Clerk shall forthwith file with the Auditor of San Mateo County the said assessment, together with said diagram thereto attached and made a part thereof, as confirmed by the City Council, with the certificate of such confirmation thereto attached and of the date thereof.

11. That the order for the levy and collection of assessment for the improvements and the final adoption and approval of the Engineer's Report as a whole, and of the plans and specifications, estimate of the costs and expenses, the diagram and the assessment, as contained in said Report, as modified, as hereinabove determined and ordered, is intended to and shall refer and apply to said Report, or any portion thereof, as amended, modified, revised or corrected by, or pursuant to and in accordance with any resolution or order, if any, heretofore duly adopted or made by this Council.

12. That the San Mateo County Controller and the San Mateo County Tax Collector apply the Sierra Point Landscaping and Lighting District assessments to the tax roll and have the San Mateo County Tax Collector collect said assessments in the manner and form as with all other such assessments collected by the San Mateo County Tax Collector.

Cyril G. Bologoff
Mayor

I, the undersigned, hereby certify that the foregoing Resolution No. 2011-31, was adopted by the City Council of the City of Brisbane, at a regular meeting thereof held on the 5th day of July, 2011, by the following roll call vote:

AYES:
NOES:
ABSENT:

Sheri Marie Spediacci
City Clerk