



CITY OF BANNING STAFF REPORT

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

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MEETING DATE: April 9, 2024

SUBJECT: Workshop for the City of Banning's Landscape Maintenance District No. 1

RECOMMENDATION:

Discuss the background, operation and maintenance, and budget of Landscape Maintenance District No. 1 ("LMD No. 1" or "District").

BACKGROUND:

LMD No. 1 in the City of Banning was established through the adoption of Resolution 1990-59 on August 14, 1990 (9 tracts), with another, Tract No. 22913, being annexed into the District in 1992. An additional five tracts and three tentative tracts were annexed into LMD No. 1 (Annexation No. 1) when the City Council approved Resolution 2005-36 on May 10, 2005. Annexation No. 2, adding Tract No. 32370, occurred on November 14, 2023 when the City Council approved Resolution No. 2023-177. There are currently eleven (11) Zones and 1,034 assessment units (i.e. properties) in LMD No. 1. A map displaying the District and its' Zones is shown as Attachment 2.

LMD No. 1 provides a mechanism for the operation and maintenance of landscape medians and parkways, perimeter strips, landscaped hillsides with high visibility, side slopes adjacent to sidewalks and retention basins annexed into it. LMD No. 1 funds expenses (e.g. utility costs, landscape maintenance contractor, etc.) by revenues collected from the special benefit assessments paid for by each property owner within LMD No. 1. The District, by special benefit assessments, provides funding for the operation and maintenance of certain landscape areas within the City of Banning, all of which were constructed as part of private development projects and many of which are located in the public right-of-way. The 1972 Act requires that assessments are to be levied according to benefit rather than according to assessed value.

Every year, Engineering Division staff prepare three staff reports as part of the levy and assessment process required by the Streets and Highways Code. After the initiation staff report, an Engineer's Report is prepared in house and the intention to levy assessments and approval of the Engineer's Report is brought before the City Council. Lastly, a Public Hearing confirming the assessment for the next FY is held.

Budget Shortfalls

Zones 1-5 of LMD No. 1 did not include a price increase or escalator to the yearly amounts paid by each homeowner. A maximum 5% escalator was introduced for Zones 6-11. This has left most of those tracts operating in a deficit each year as revenues do not pay for rising costs in utilities and the landscape contractor services.

The annual assessments may be increased without further notice or public hearing by a percentage equal to the increase in the Consumer Price Increase (CPI) for all Urban Consumers in the Riverside-San Bernardino-Ontario, CA area, published by the United States Department of Labor, Bureau of Labor Statistics during the preceding calendar year, provided however, that any such increase shall not exceed five percent (5%) per fiscal year.

2024 Projects

For zones with revenue surpluses, Public Works Dept. staff evaluated the fiscal condition and requested proposals from landscape contractors to perform improvements. These projects include: Zone 2, palm tree removals and replacement at the entrances; Zone 6, install new plants, replace broken sprinkler heads, consider the removal of turf and plant mulch and plants; Zone 7, trim overhung trees and thin them out, improve ground cover, and install mulch; Zone 9, continued repair of vinyl fencing, install new shrubs and ground cover; and Zone 10, thin out trees along Mountain Ave., consider removing turf and install plants and mulch.

Previous Proposition 218 Attempt

In 2019, due to the revenue shortfall and the lack of funding for replacement projects, the Public Works Department hired Webb Municipal Finance, LLC (Webb) to analyze the existing LMD No. 1 structure, prepare a financial analysis in the form of a Financial Report, and determine the proper zones and assessment amounts for each tract in order to assure the LMD No.1 is operated with a balanced budget. The consultant prepared a detailed analysis and budget for all the existing tracts within LMD No. 1 and recommended that it be rezoned in a manner that allows each tract to pay only for benefits that it is receiving. Thus, ten (10) new Zones were developed to better reflect each tract's unique expenses and revenues and benefits bestowed to its' property owners residing within the Zone, as shown in Attachment 2, the LMD No.1 map. Zone No. 11 was annexed into the LMD No. 1 on November 14, 2023, and is comprised of Tract No. 32370, known as Canterbury.

Additionally, the Financial Report prepared by Webb analyzed the LMD No. 1 budget and recommended changes including some increases to the Assessment Units to ensure revenues were sufficient to support the rising expenditures. A Prop 218 hearing was recommended in the Financial Report to change the Assessments needed to balance the budget. Webb then prepared a "Proposition 218" Engineer's Report that presented the new escalated Assessment Unit rates for each Zone reflected on the Proposition 218 notice and ballot for each Zone. A Prop 218 public hearing was held on December 8, 2020 with the results tabulated showing a "No" vote for each of the ten Zones. Thus, the base Assessment Unit rate remained unchanged, with no increases despite rising costs. The exceptions were Zones six through ten, whose tracts were annexed into LMD No.1 in 2005, at which time, those property owners authorized the annual CPI adjustment.

LMD Remedies/Revisions

Service Reductions

Since the Prop 218 public hearing held on December 8, 2020, certain operational adjustments (i.e. maintenance contract scope reduction for mowing, trash pickup, and shrub maintenance and reduction in watering) have been made to reduce costs. This has helped to reduce deficits in Zones 1,3,4,5, 8 and 9 this past year. Zones that have enough funds to support their budget have funds to install improvements such as mulch, irrigation upgrades, and plants. Unfortunately, this past year, vandalism of sprinkler heads and stolen irrigation valves have cost about \$8,500 to replace.

For FY 24/25, in the Zones that have a balanced budget, mowing will occur weekly, and shrubs maintained biweekly in the summer months. In the Zones with deficits, mowing will occur biweekly, and shrubs maintained quarterly.

De-annexation/Dissolution of a Zone

If the City Council wanted to de-annex a Zone from the District, Engineering Division staff would need to follow the same process that was used to form the District. Therefore, each property owner needs to be sent a ballot to vote on the dissolution of the Zone/District. During the Public Hearing, the ballots received will need to be tabulated to determine if the dissolution passes or not by a majority vote.

In order to have a HOA take over the operation and maintenance of the LMD, the City would need to enter into an agreement with the HOA and provide them with an encroachment permit allowing them to access public property for maintenance. Additional items that should be included in the agreement are insurance requirements and indemnification provisions. There would be a cost to the homeowners within a Zone for the formation of the HOA and for the HOA expenses including maintaining the areas within the LMD.

Additional Remedies

Other possibilities include holding another Proposition 218 Hearing and asking residents within LMD No. 1 to vote on increasing the base assessment and add an annual CPI escalator within their Zone or consider utilizing General funds if it is legally viable.

JUSTIFICATION:

The City Council approved the formation of LMD No. 1 by adopting Resolution No. 1990-59 on August 14, 1990. Assessments collected from the property owners located within LMD No. 1 provide for the funding required to maintain landscape areas located within the public right-of-way directly benefiting said property owners.

FISCAL IMPACT:

Any work within the LMD must be fully funded from each LMD Zone, and funds cannot be transferred across zones for work. There is no general fund fiscal impact. Funds will not be expended to fully deplete reserve balances, or expended in zones with structural deficits. This workshop item is updating the City Council only.

ALTERNATIVES:

This workshop item is updating the City Council only.

ATTACHMENTS:

1. [LMD Presentation.pdf](#)
2. [LMD No.1 Map.pdf](#)