

LAST MINUTE AGENDA INFORMATION

6/06/12 Regular Meeting

(Agenda Related Writings/Documents provided to a majority of the City Council after distribution of the Agenda Packet for the June 6, 2012 Regular meeting.)

ITEM NO. DESCRIPTION

6.5	REPORT TO CITY COUNCIL ON UNIMPROVED ALLEYS. (0720-08) 1. Staff Report
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STAFF REPORT
CITY OF IMPERIAL BEACH

CITY MANAGER &
CITY CLERK OFFICES

2012 JUN -4 AM 8:27

TO: HONORABLE MAYOR AND CITY COUNCIL
FROM: GARY BROWN, CITY MANAGER
MEETING DATE: JUNE 6, 2012
ORIGINATING DEPT.: COMMUNITY DEVELOPMENT DEPARTMENT
GREGORY WADE, DIRECTOR
SUBJECT: REPORT TO CITY COUNCIL ON UNIMPROVED ALLEYS

BACKGROUND:

Over the years, the City of Imperial Beach has pursued various options to pave unimproved alleys within the City. Prior to adoption of Proposition 218 in November 1996, the City sought to pave unimproved alleys primarily through formation of alley assessment districts which could then be created without approval of adjacent property owners. If, however, a protest was raised by a majority of adjacent property owners, the City Council could not take action on the district for at least one year unless a four-fifths vote determined that health and safety considerations necessitated the improvements. After the expansion of the City's redevelopment project area in 2001, and the subsequent sale of redevelopment bonds in late 2003, the Redevelopment Agency again sought to establish two alley improvement assessment districts. Since this was after adoption of Proposition 218, a majority vote in support of these districts was required by adjacent property owners. Both of these districts failed without the required majority support.

Another way in which alleys have been improved over the years, and a practice which continues today, is to require their improvement as a condition of approval for new development projects adjacent to alleys. Depending upon the nature of the proposed project, permit applicants have been and are now required either to pave the portion of the alley adjacent to the property to be improved or to execute a lien agreement requiring the payment of a "fair share" contribution to be used towards the future improvement of the alley. These lien agreements also require the applicant not to object to the formation of any future alley improvement assessment district.

Section 12.08.085 of the Imperial Beach Municipal Code (IBMC) details the manner in which unpaved alleys are to be improved as follows:

12.08.085 Alley Improvement Required

In the event that an alley contiguous to a property upon which it is contemplated erecting a structure or building or making a condominium conversion is not improved to City standards, the firm or corporation installing or erecting such structure or making such conversion within the City shall improve or guarantee such alley to full width in accordance with the ordinances of the City, and shall secure a permit therefor prior to the issuance of any building permit or condominium conversion clearance, according to

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the following:

- A. For any development for which the adjacent unimproved alley is immediately adjacent to an alley section which is improved to City standards, the developer shall install the alley improvements for the frontage of that development site with that development.
- B. For any development for which the adjacent unimproved alley is not immediately adjacent to an alley section improved to City standards, the developer shall provide or guarantee alley improvements as follows:
 - 1. For residential development which would result in a one-family dwelling, a duplex or double-detached dwellings, or a triplex on the development site, the developer shall provide a lien contract for the improvement of the alley adjacent to the development site, in lieu of installation of alley improvements at the time of the development.
 - 2. For residential development which would result in four or more dwelling units in that portion of the City bounded by Seacoast Drive, Imperial Beach Boulevard, Third Street and Donax Avenue, and development which would result in six or more dwelling units elsewhere in the City, the developer shall install alley improvements for the frontage of the development site on the adjacent alley and out to the nearest street connection or nearest improved alley section which connects to a street.
 - 3. For residential development which would result in fewer than four dwelling units in the area bounded by Seacoast Drive, Imperial Beach Boulevard, Third Street and Donax Avenue, and which would result in fewer than six dwelling units elsewhere in the City, the developer shall provide a lien contract for the improvement of the alley immediately adjacent to the development site in lieu of installation of alley improvements at the time of the development.
 - 4. For development other than that covered by paragraphs 1 through 3 of this subsection, the developer shall install alley improvements for the frontage of the development site on the adjacent alley and out to the nearest street connection or nearest improved alley section which connects to a street. (Ord. 700 § 2, 1987)

Before the adoption of Proposition 218 in November 1996, the City Council had initiated several successful alley improvement assessment districts within the City. In 1995-1996, however, the City Council initiated the formation of Assessment District 69 for the paving of Ocean Lane, which was then an unimproved alley. A neighboring property owner successfully gathered a majority opposition to this assessment district and, rather than approving the district as necessary for health and safety reasons by a four-fifths vote, the City Council instead elected not to proceed with the assessment district.

In July 2004, the Redevelopment Agency directed staff to initiate plans to improve the remaining unimproved alleys within the City of Imperial Beach with the objective of creating a citywide alley assessment district. Design costs for this effort were funded by Redevelopment Agency bond proceeds. On October 6, 2004, the Redevelopment Agency adopted resolution R-04-54 establishing the City Wide Alley Improvement Project (CIP S04-902) as a capital improvement

program project. The Redevelopment Agency adopted Resolution No. R-04-51 allocating \$500,000 to fund the initial soft costs including engineering, project management, bond counsel, underwriter services, and CIP management costs and in December 2005, the Redevelopment Agency increased the funding for the project to \$700,000.

At that time, there were 51 unimproved alley blocks or partial blocks identified within the City of Imperial Beach. The survey and construction plans were completed for these alley sections. Information bulletins were mailed out to all property owners adjacent to unimproved alleys in November 2005 and three community meetings were held with property owners in March and April 2006.

The alley conditions were characterized in two categories, dirt alleys and deteriorated asphalt alleys. Therefore, the citywide alley assessment district was separated into two separate districts, 72A and 72B. Assessment District 72A consisted of 35 of the 51 unimproved alleys and primarily included the unimproved dirt alleys. Assessment District 72B consisted of the remaining 16 unimproved alleys and included all deteriorated asphalt alleys.

On June 21, 2006, at a City Council public hearing, a report was given by staff, testimony was heard and ballots tabulated for Assessment Districts 72A and 72B with the following results:

Assessment District 72A failed by the following weighted vote results:

YES: \$839,635.72 (49.9%)
NO: \$843,393.45 (50.1%)

Assessment District 72B failed by the following weighted vote results:

YES: \$36,671.15 (3.1%)
NO: \$1,131,376.63 (96.9%)

Given the results of the ballots, the City Council voted to unanimously to reject the formation of both Alley Assessment Districts. Since that time, City staff has relied upon the development permit review process and IBMC 12.08.085 to facilitate the paving of unimproved alleys.

DISCUSSION:

At the City Council meeting on February 15, 2012, two citizens addressed the City Council during public comment regarding unpaved alleys adjacent to their properties within the City. Each citizen had taken it upon themselves to place gravel in the unpaved section of their respective alleys and, therefore, had been subject to a City-issued Notice of Violation (NOV) in one case and contact from the Public Works Department in the other case advising them to remove the illegal placement of gravel within these alleys. Both citizens requested that the City Council allow them to keep the gravel in the alleys to provide a temporary solution to dust and storm water pollution issues they believe result from the unpaved alleys. The City Council directed staff to review this issue and bring the item back at a future City Council meeting.

Following City Council direction, staff met in March of this year to discuss options for the City Council to consider regarding unimproved alleys within the City. In discussing these options, a number of issues must be considered including costs to the City, costs to property owners, liability, storm water pollution impacts and whether to pursue temporary or permanent options, or both. During staff's discussion, therefore, the following options were identified:

Permanent Options:

OPTION A – SELF-INITIATED ASSESSMENT DISTRICT

This option would involve allowing property owners adjacent to unimproved alleys to initiate an alley improvement assessment district on their own. The requirement to establish a self-initiated assessment district, however, requires that property owners of more than sixty percent (60%) of the frontage of an unimproved alley sign and file a petition with the City Clerk requesting construction of the improvements. Alleys adjacent to successfully formed assessment districts would be improved to the City-designed standards developed in 2005 and would also require a permit from the City as specified in the IBMC. The assessment would likely range from \$7,700 to \$10,000 per property owner and would be funded by the participating property owners. The City could also consider proactively advising property owners of this option along with the process for the formation of such an assessment district.

OPTION B – NO ASSESSMENT DISTRICT – OWNER BUILT

This option would simply allow property owners adjacent to an unimproved alley to improve the alley to City-designed standards at their own cost at any time. The improvements would again be improved to City standards and would have to cover the full width of the alley as specified in the IBMC. A permit would also be required from the City. If the paving a mid-block portion of an alley were proposed, however, City staff would only allow the paving to proceed if it were full-width and it extended out to the nearest street as required under IBMC 12.08.085.B.2 and 4. This would be to ensure that the newly improved alley was properly engineered.

OPTION C – PURSUE ANOTHER ALLEY IMPROVEMENT ASSESSMENT DISTRICT

This option would replicate the effort carried out in 2005-2006 to establish another alley improvement assessment district. Given the narrow margin of defeat of Assessment District 72A noted above, it may be that a newly-proposed assessment district could succeed. If necessary, staff could modify the assessment district boundaries and could also provide a more comprehensive education and outreach program to the affected property owners than was previously implemented. Since the margin of defeat of Assessment District 72A was so narrow, staff believes that active City Council support would be necessary for the district to be successfully formed. It should also be noted that, during the initial assessment district formation, the City Council/Redevelopment Agency voted to pay the South Bay Unified School District's (SBUSD) total assessment of \$164,888.73 to cover the cost to improve the three alley segments adjacent to SBUSD properties. This cost was to be funded through Redevelopment Agency tax increment. Additionally, the City Council voted to pay the City's share of \$5,862.60 to improve the portion of the alley adjacent to Sewer Pump Station No. 9. This cost was to be funded from the Sewer Enterprise Fund at an annual cost of \$379.57. Finally, as was the case in 2005-2006, costs to establish the assessment district would also be incurred by the City. The costs associated with formation of Alley Assessment Districts 72A and 72B in 2005-2006 were \$50,000 for bond counsel and \$20,000 for the district formation. Costs for formation of another alley improvement assessment district today would likely be in this price range.

OPTION D – CURRENT PRACTICE

Currently, alleys are improved pursuant to IBMC 12.08.085 as outlined above. This option, therefore, would simply rely upon the permit application process to address an unimproved alley adjacent to a project site for which an application is submitted. As noted above, this would then result in the paving of some alleys and the execution of an alley lien agreement in others. Once

again, the alleys would have to be improved to the City-designed standards developed in 2005.
Temporary Options:

OPTION E – CITY DESIGN & CONSTRUCT TEMPORARY IMPROVEMENTS

This option would involve the City designing an appropriate, temporary solution to resurface the unimproved alleys. This option would likely mean grading the alleys, filling holes, and surfacing with some material. However, in order to provide a workable improvement and to avoid liability, this would still have to be an engineered solution. In discussing this with the City's contract Engineer, this likely would involve using the same basic design profile developed in 2005, but using a different surface material (such as gravel or decomposed granite). The cost to develop this temporary design is estimated at \$15,000. A skip loader would also be needed to grade the alleys and would cost approximately \$250 per day. Gravel may cost approximately \$25 to \$35 per cubic yard and one yard would cover approximately 100 square feet at three inches deep. At this cost, a typical alley of approximately 10,000 square feet (20' x 500') would require approximately 100 yards of gravel at a cost of \$2,500 to \$3,500. However, the costs for, grading, compaction, etc. would easily more than double this cost. Practical design challenges with the use of gravel would include sloughing as some alleys slope towards the centerline of the alley. Any such temporary surface would require on-going maintenance at an undetermined cost to redistribute the gravel and/or maintain the alley. Undertaking the construction and maintenance of the alleys may subject the City to ongoing maintenance obligations.

OPTION F – DEVELOP A “GRAVEL IMPROVEMENT STANDARD” FOR PRIVATE INSTALLATION

This option would involve initial upfront design costs incurred by the City as discussed in Option D and would then allow and require property owners adjacent to unimproved alleys to improve the alleys to these design standards. The City would require the property owners responsible for the improvements to also maintain them.

OPTION G – STATUS QUO

This option would continue to make it illegal to improve an alley to anything other than the City-designed standards (or a similar design meeting storm water pollution prevention standards). A permit would continue to be required for the improvement of any alley. Installation of temporary improvements would not be permitted and would be subject to code compliance action and abatement (removal) of the non-permitted improvements.

ENVIRONMENTAL IMPACT

There is no environmental impact with this report. Any future alley improvements, however, would be exempt under the California Environmental Quality Act (CEQA) Section 15301 (Existing Facilities).

FISCAL IMPACT:

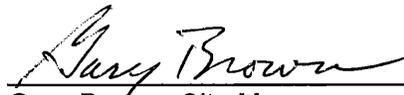
Until direction is provided by the City Council, there would be an undetermined fiscal impact to the City. Design of a temporary alley improvement solution alone would cost approximately \$15,000. If directed to improve the alleys, improvement costs incurred by the City would vary depending upon the option selected. Staff costs would also result in an as-yet undetermined amount.

DEPARTMENT RECOMMENDATION:

Staff recommends that the City Council receive the report on options for unimproved alleys and provide direction as needed. Staff further recommends that the City Council select an option or options for which additional information should be gathered such as cost estimates, schedule, etc.

CITY MANAGER'S RECOMMENDATION:

Approve Department recommendation.



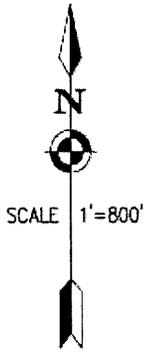
Gary Brown, City Manager

Attachments:

1. Map of Failed Alley Improvement Assessment District 72A
2. Map of Failed Alley Improvement Assessment District 72B
3. Citizen Correspondence & Photos Regarding Unimproved Alleys

FAILED ALLEY IMPROVEMENT ASSESSMENT DISTRICT 72A

Attachment 1



CORONADO

LEGEND

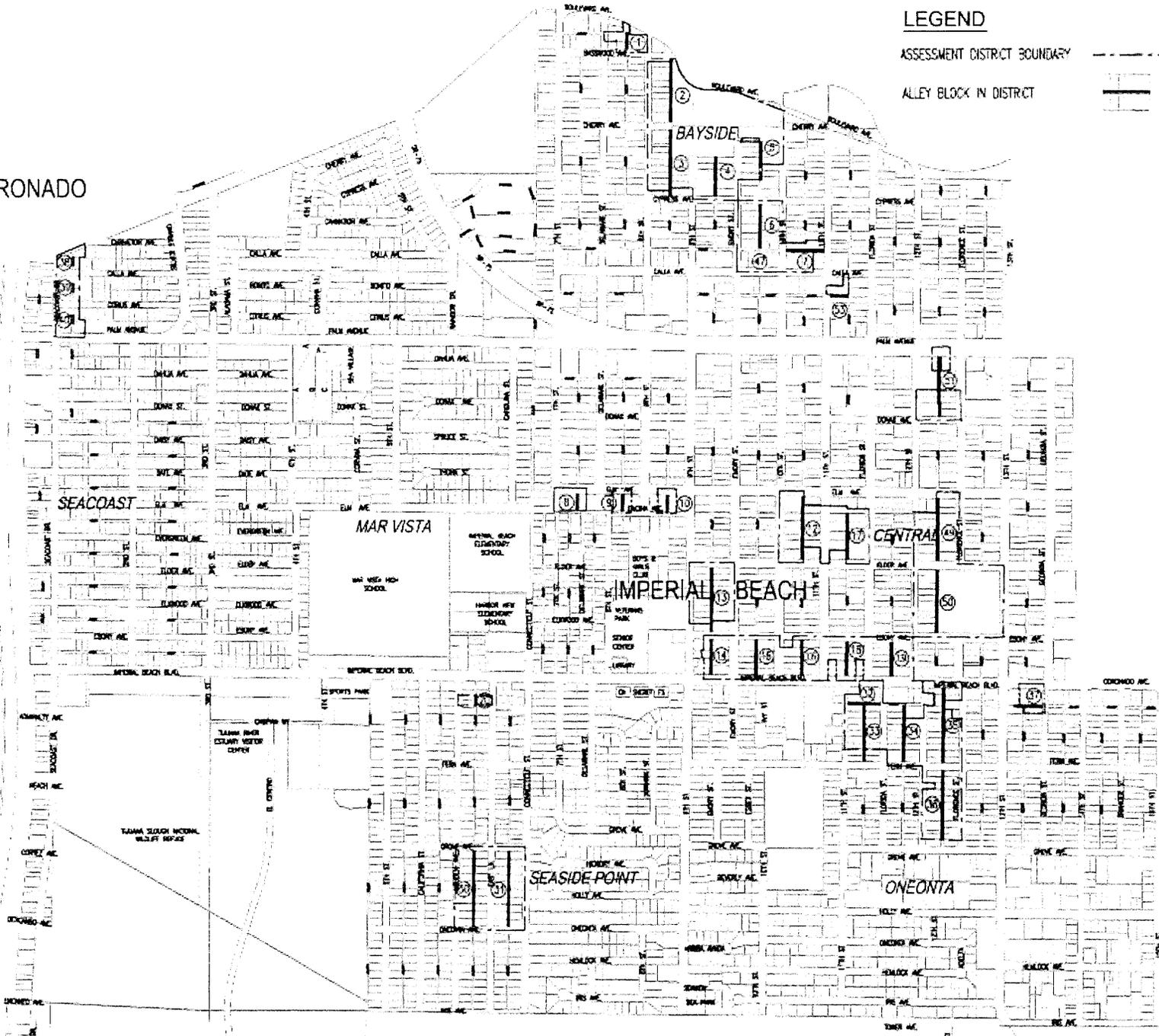
ASSESSMENT DISTRICT BOUNDARY



ALLEY BLOCK IN DISTRICT



PACIFIC OCEAN



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