

ORDINANCE NO. 2952

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA MODIFYING CERTAIN PROVISIONS OF THE MUNICIPAL IMPROVEMENT ACT OF 1913, THE SPECIAL ASSESSMENT, INVESTIGATION, LIMITATION AND MAJORITY PROTEST ACT OF 1931 AND THE ELECTIONS CODE

WHEREAS, the City of Chula Vista, California, is a Charter City organized and existing under the laws of the State of California, and is duly authorized and empowered to make laws as they relate to municipal affairs of the City; and

WHEREAS, the City has previously formed Assessment Districts for the purpose of financing the acquisition or construction of public improvements, including but not limited to the construction of infill street improvements under the 1911 Block Act (Chapter 27 of the Improvement Act of 1911); and

WHEREAS, the City wishes to utilize the procedures of the Municipal Improvement Act of 1913 for formation of assessment districts to finance such infill street improvements but to continue to offer property owners the financing arrangements available under the 1911 Block Act; and

WHEREAS, petitions collected from property owners in accordance with the Special Assessment Investigation, Limitation and Majority Protest Act of 1931 (the "1931 Act") can more accurately reflect the provisions of Article XIID of the California Constitution if the adequacy of such petitions can be based on the financial responsibility of the property owners signing such petitions rather than the acreage owned by such property owners as is the current requirement under the 1931 Act; and

WHEREAS, Chapter 824 of the Statutes of 2003 (Assembly Bill 1521), effective on January 1, 2004, amends the Elections Code of the State of California to limit to only two dates in each odd numbered year and three dates in each even numbered year on which assessment ballot proceedings may be undertaken; and

WHEREAS, the limited dates on which such assessment ballot proceedings may be undertaken will unnecessarily limit the timing of and delay proceedings to consider the formation of Assessment Districts.

NOW, THEREFORE, the City Council of the City of Chula Vista does hereby ordain as follows:

SECTION 1. Reference to Laws: The provisions of the Municipal Improvement Act of 1913 (Division 12 of the Streets and Highways Code commencing with Section 10000), and the Special Assessment Investigation, Limitation and Majority Protest Act of 1931 (Division 4 of the Streets and Highways Code commencing with Section 2800), shall be applicable to Assessment District proceedings except as modified herein.

SECTION 2. Section 10200 of the Streets and Highways Code shall be amended to read as follows:

“Before ordering any improvement which is authorized by this division to be made, the legislative body shall adopt a resolution declaring its intention to do so, briefly describing the proposed improvement, specifying the exterior boundaries of the assessment district, providing for the issuance of improvement bonds, if any bonds are to be issued, pursuant to Chapter 7 (commencing with Section 10600), declaring its intention to levy an assessment to maintain, repair, or improve the facility pursuant to Section 10100.8, if it intends to levy such an assessment, and providing for the disposal of any surplus remaining in the improvement fund after the completion of the improvement, as authorized in Section 10427 and, if the legislative body so desires, declaring its intention to authorize the payment of assessments to be made in annual installments pursuant to Section 5895. The descriptions do not need to be detailed and shall be sufficient if they enable the engineer to generally identify the nature, location, and extent of the improvements and the location and extent of the assessment district. The resolution of intention shall also contain a brief statement of the intention of the legislative body to enter into an agreement with any other public agency, or public utility, pursuant to Chapter 2 (commencing with Section 10100).”

Section 10402 of the Streets and Highways Code shall be amended to read as follows:

“The tax collector shall record the diagram and assessment received pursuant to Section 10401 in a substantial book to be kept for that purpose in his office. Upon the date of recordation with the tax collector or, if a certified copy is recorded with the county surveyor or with the superintendent of streets of the City, or both, as provided in Section 10401, then upon the date of recordation, the assessment becomes due and payable, except that the legislative body may provide (a) in the resolution adopted pursuant to Section 10312 that all or any portion of the assessment becomes due and payable on the date of the bonds which represent the assessments or portion thereof or (b) in a resolution adopted pursuant to Section 5895 that such assessment shall be payable in such annual installments as may be prescribed in such resolution.”

SECTION 3. Section 10403 of the Streets and Highways Code shall be amended to read as follows:

“All assessments not paid within 30 days after they become due, except all unpaid assessments for which bonds are to be issued or for which the legislative body has authorized the payment of such assessment in annual installments pursuant to Section 5895, shall become delinquent and the recording officer shall add to each delinquent assessment 5 percent of the amount thereof. Assessments may be paid in whole or in part during the 30-day period after the same become due and payable.”

SECTION 4. Section 10404 (d)(3) of the Streets and Highways Code shall be amended in its entirety to read as follows:

“(3) If bonds are not to be issued or the legislative body has not authorized the payment of such assessment in annual installments pursuant to Section 5895, that all assessments will become delinquent if not paid before the expiration of that 30 days and the effect of the failure to pay the assessments within the 30-day period.”

Section 10404(d) shall be further amended by the addition of subsection (5) which shall read as follows:

(5) “If the legislative body has authorized the payment of such assessment in annual installments pursuant to Section 5895, that all assessments not paid before the expiration of that 30 days shall be payable in such number of annual installments as the legislative body shall have

determined and that the payment of such assessments so deferred shall bear interest on the unpaid balance at such interest rate as the legislative body shall have determined.”

SECTION 6: Section 2804 (a)(3) of the Streets and Highways Code shall be amended to read as follows:

(3) “All of the owners of more than 60 percent in area of the property subject to assessment for the proposed improvements or more than 60 percent of the properties to be assessed as weighted in accordance with the maximum allowable assessments as established for assessment balloting procedures under Article XIID of the California Constitution have signed or filed with the Clerk or Secretary of the legislative body undertaking the proceedings a written petition for the improvements meeting the requirements of Section 2804.5.”

SECTION 7: Section 5875 of the Streets and Highways Code shall be amended to read as follows:

“The owners of lots or portions of lots fronting on any public street or place when that street or place has been improved by the construction of sidewalks or curbs for a total frontage of more than fifty percent (50%) on one side of such street or place in any block, or where a petition signed by the owners of more than sixty percent (60%) of (a) the front footage of any part of an unimproved portion or portions of a block or (b) the properties to be assessed for the installation of the improvements requested by such petition as weighted in accordance with the maximum allowable assessments as established for assessment balloting procedures under Article XIID of the California Constitution has been filed with the City Clerk requesting the installation of such improvements in front of said part, or whenever the legislative body of the City upon its own motion orders the installation of such improvements in front of said part, shall have the duty of constructing or causing the construction of sidewalks or curbs in front of their properties upon notice so to do by the superintendent of streets.”

SECTION 8: Section 5876 of the Streets and Highways Code is hereby amended to read as follows:

“When the superintendent of streets finds that sidewalks or curbs have been constructed, or that their construction has been guaranteed to his satisfaction, in front of properties constituting more than fifty percent (50%) of the frontage in any block, or where a petition signed by the owners of more than sixty percent (60%) of the front footage of the block has been filed with the City Clerk requesting the installation of such improvements, or where a petition signed by the owners of more than sixty percent (60%) of (a) the front footage of any part of an unimproved portion or portions of a block or (b) the properties to be assessed for the installation of the improvements requested by such petition as weighted in accordance with the maximum allowable assessments as established for assessment balloting procedures under Article XIID of the California Constitution has been filed with the City Clerk requesting the installation of such improvements in front of said part, or whenever the legislative body of the City upon its own motion has ordered the installation of such improvements in front of said part, said superintendent of streets may, and upon the instructions of the legislative body of the City shall, notify the owner or person in possession of the property fronting on that portion of the street in such block in which no sidewalks or curbs have been constructed theretofore, to construct or cause to be constructed sidewalks or curbs in front of his property.”

SECTION 9: Section 1500 of the Elections Code is hereby amended to read as follows:

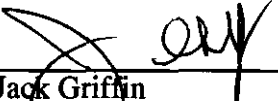
“The established mailed ballot election dates are as follows:

- (a) The first Tuesday after the first Monday in May of each year.
- (b) The first Tuesday after the first Monday in June of each even numbered year.
- (c) The last Tuesday in August of each year.
- (d) Any such Tuesday as may be selected by the legislative body for an election or assessment ballot proceeding required or authorized by Article XIIC or XIID of the California Constitution.”


SECTION 7: This ordinance shall take effect and be in full force on the thirtieth day from and after its adoption.

Presented by

Approved as to form by



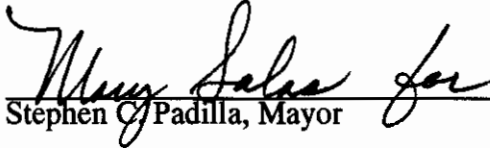
Jack Griffin
General Services Director



Ann Moore
City Attorney


PASSED, APPROVED, and ADOPTED by the City Council of the City of Chula Vista, California, this 3rd day of January, 2004, by the following vote:

AYES:	Councilmembers:	Davis, McCann, Salas and Padilla
NAYS:	Councilmembers:	Rindone
ABSENT:	Councilmembers:	None



Stephen C. Padilla, Mayor

ATTEST:



Susan Bigelow, CMC, City Clerk

STATE OF CALIFORNIA)
COUNTY OF SAN DIEGO)
CITY OF CHULA VISTA)

I, Susan Bigelow, City Clerk of Chula Vista, California, do hereby certify that the foregoing Ordinance No. 2952 had its first reading at a regular meeting held on the 27th day of January, 2004 and its second reading and adoption at a regular meeting of said City Council held on the 3rd day of February, 2004.

Executed this 3rd day of February, 2004.



Susan Bigelow, CMC, City Clerk