

## AGENDA SUMMARY PAGE

RECOMMENDING COMMITTEE MEETING OF: SEPTEMBER 15, 2009

DEPARTMENT: CITY ATTORNEY

DIRECTOR: BRADFORD R. JERBIC

☐ Consent ☒ Discussion

**SUBJECT:**

Bill No. 2009-38 - Ordinance Creating Special Improvement District No. 1514 - Ann Road and Cimarron Road (West of Leggett Road) Sponsored by: Stan Requirement

**Fiscal Impact**

☐

No Impact

☐

Augmentation Required

☐

Budget Funds Available

Amount: \$296,243.40

Funding Source: Capital Projects Fund - Special Assessments

Dept./Division: Public Works/SID

**PURPOSE/BACKGROUND:**

The construction and installation of pavement, "T" type gutter, sidewalks, streetlights and driveways.

**RECOMMENDATION:**

This bill should be submitted to a Recommending Committee for review, hearing and recommendation to the City Council for final action.

**BACKUP DOCUMENTATION:**

Bill No. 2009-38

Motion made by STAVROS S. ANTHONY to Approve as Do Pass

Passed For: 2; Against: 0; Abstain: 0; Did Not Vote: 0; Excused: 0

STAVROS S. ANTHONY, RICKI Y. BARLOW; (Against-None); (Abstain-None); (Did Not Vote-None); (Excused-None)

**Minutes:**

CHIEF DEPUTY CITY ATTORNEY VAL STEED explained that this is a standard special improvement district creation ordinance. The item is in order, and he recommended approval.

Property owner TIM MURPHY asked if the subject area included around the corner of Leggett Road and Cimarron Road. LORRI LINNERT DUNFORD, Public Works, explained that pavement, curb and gutter on Ann Road will be done and pavement, curb and gutter as well as sidewalk and street lights will be done on Cimarron Road. MR. MURPHY verified with MS. DUNFORD that the developer is responsible for completing the improvements on Leggett Road but questioned why not for the portion on Ann Road, specifically the parcel that was rezoned from Ranch Estates (RE) to Office Professional (PR). He gave an account of the history on this

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parcel, noting that it was up for sale for approximately one million dollars and development has yet to take place. MS. DUNFORD confirmed that the property owners are ultimately paying for these improvements, but MR. MURPHY realized that the costs for these improvements would have been higher if the developer had to pay for them.

A traffic study was done, which warrants pavement improvements. There is an undesirable lane shift that merges traffic and adding a curb and gutter will assist in storm water flows. In addition, a traffic signal is needed at the intersection of Ann Road and Cimarron Road due to high traffic and safety concerns but will not be placed until this corner is fully developed.

COUNCILMAN BARLOW asked whether or not taxes increase upon development and how the assessment process works. CHIEF DEPUTY CITY ATTORNEY STEEL responded that this special improvement is fully funded by assessments. MS. DUNFORD added that the Nevada Revised Statutes (NRS) allows for special assessments on properties for these improvements within the public right-of-way. If additional improvements are desired by property owners, then those costs are assessed proportionately to each one of the property owners. The subject area is the only section that does not have improvements and consist of approximately 600 feet, and property owners located within this area will be assessed. MR. MURPHY noted additional areas needing this type of improvement, however, it was determined that those areas are located within the Clark County right-of-way. After further discussion regarding past assessments, COUNCILMAN BARLOW verified from COUNCILMAN BARLOW that he supported the improvements on Ann Road but not at the expense of tax payers. It would appear that developers are being allowed to develop something for free.

CHIEF DEPUTY CITY ATTORNEY STEEL informed COUNCILMAN BARLOW that there is no provision prohibiting a developer or property owner from selling their property after a rezoning has been granted. It is referred to as alienation of restriction, which is an attempt to limit an individual from selling his property. MR. MURPHY understood that individuals have a right to make a profit.

For the record, COUNCILMAN ROSS liaison, SHEILA LAMBERT, stated there is C-1 and Tavern zoning across the street from the subject area. When this property was zoned PR, it was important to have the offsite improvements done as soon as possible within this area. The Councilman met with the Department of Public Works, and the decision was to go forward since the developer was not producing as promised. In addition, there was concern from the School District regarding safety in picking up children in the subject area. As a result, this was a mechanism in order to proceed with these improvements promptly.

MS. DUNFORD explained for JUANITA CLARK, Charleston Neighborhood Preservation, that regardless of the number of protests, the City is allowed to move forward with improvements, regardless of the number of protests, per the NRS. With that provision, there are two exceptions: a) if there is less than a half mile (2,640 feet) between like improvements, which applies in this case, as the subject area is approximately 600 feet between like improvements on Ann Road and just over 300 feet between like improvements on Cimarron Road or b) if greater than 50 percent

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of the funding is through another source other than the assessments, which is not applicable in this matter.

MS. CLARK commented on a submitted protest that was discarded and questioned why the protest would not be inclusive of the documentation indefinitely. MS. DUNFORD noted that the protest is still on file with the City Clerks Office and a part of the record. It is standard procedure that the protests are reviewed for merit then weigh the benefit of the project versus the protests received. NRS requires the protests to be discarded prior to moving forward, but the protest would always be a part of the public record for the project. There was only one protest relative to this project.

COUNCILMAN ANTHONY appreciated staffs comments but clarified that the only issue before the board is approval of the improvements, which is paid up front, but reimbursed through the assessments.

