



To: Board of Directors
From: Scott Revell, Interim District Manager
Meeting Date: September 1, 2009
RE: Red Mountain South LID Formation Hearing

Staff Recommendation

Staff recommends that the Board conduct and close the public hearing. Any new petitions or written protests submitted at the hearing will affect the preliminary assessment roll. Staff will make the adjustments to the roll and the Board can adopt Resolution No. 2009-26 on September 15th.

If there are no new petitions or written protests submitted at the hearing, staff recommends adoption of Resolution No. 2009-26.

Attachments

1. Resolution No. 2009-26 (w/ preliminary assessment roll and LID map)
2. Engineer's Feasibility Report
3. Affidavit of Mailing notices
4. Affidavit of Publication

Background

LID petitions were filed by several dozen property owners in February of 2007. KID hired the engineering firm McKay and Sposito in late 2008 to perform a preliminary investigation of the LID. The Board acknowledged receipt of the LID petitions on October 21, 2008.

Public meetings were held on December 9, 2008, January 27, 2009 and April 20, 2009 to gauge the land owners' interest in various system performance specifications.

The engineer's report concludes that:

- The estimated total project cost is \$13,493,626.16 to serve an estimated 1,957 irrigated acres.

- The estimated total payments are \$26,327,925 including 6% interest over 25 years.
- The total cost of the LID is estimated to be \$13,453 per irrigated acre (assuming a 25 year repayment period and 6% interest);
- The per irrigated acre per year cost of the LID construction is \$539.37 acre without operations and maintenance costs.
- Power is estimated at \$92/irrigated acre/year and operations and maintenance costs are estimated at \$84/irrigated acre/year.
- The total cost per irrigated acre is estimated to be \$715.37 with operations and maintenance costs.

A 20 year repayment is \$601.14/irrigated acre/year and a 30 year repayment is \$500.91/irrigated acre/year without operations and maintenance costs.

The cost estimate assumes \$500,000 for the mitigation of the loss of shrub-steppe habitat.

The LID Formation Process

Property owners who have submitted LID petitions and would like to opt out of the LID cannot withdraw their petition once submitted, because the statute does not provide for withdrawal of a petition.

These petitioners can submit a written protest at the LID formation hearing to not be included and the boundary can be adjusted at the LID formation hearing by the KID Board to exclude their property.

If a petitioner decides that the projected costs of the project are unacceptable, their recourse is to file a written protest at the July 21st LID hearing stage. The LID petitioners are responsible for the costs of the initial investigation even if they later file a written protest and if the LID is not formed.

The required \$100 bond was submitted. Staff's understanding is that only costs incurred after the petitions were submitted on February 1, 2007 are eligible for reimbursement by the petitioners even if the LID is not formed.

The Board can choose to deny the LID at the formation hearing stage even if no written protests are filed. Examples of reasons why an LID would be denied include the project being unfeasible or the value of the land not being able to support repayment of the construction costs.

The purpose of the preliminary roll is to not allow adjustment of anything but the total project cost at the end of the project. The Final Assessment Roll must use exactly the same units and methods approved in the Preliminary Assessment Roll. Only verifiable errors can be changed.

Feasibility Summary

At the direction of the KID Board of Directors, a design/cost feasibility study was conducted which included a number of public informational meetings to work with the potential LID landowners to outline the LID process, the performance and design standards that will be used, etc. Water for the LID will come from relegation of existing water allotments from properties elsewhere in the District that have little or no permeable surfaces, such as streets and commercial areas.

From the informational meetings the system performance was set as follows:

1. 40 psi minimum pressure at the highest point of each property served below elevation 1,010 feet on Red Mountain and elevation 750 feet on Candy Mountain.
2. 1.5 acre-feet of water per acre per year.
3. Ductile iron and C-901 PVC pipe will be used.
4. A backup power supply will be included.
5. The water right dates will change from April 1st through October 15th as proposed by the petitioners to April 1st to October 31st to match the rest of the District's water right. The District is in the process of pursuing a change in the water right to begin on March 15th and end on October 15th.

Owners with land above elevation 1,010 feet will be responsible for their own distribution system to the higher elevations.

Notice of Public Hearing

Notice of the LID formation public hearing was advertised in the Tri City Herald on July 12 and July 19, 2009. In addition, individual, first class notices were mailed to the proposed LID participants on July 14, 2009. These included a letter that notified them of the hearing date, time and location, and how to respond in writing to the LID formation and the draft Preliminary Assessment Roll. Supplemental notices was mailed to all petitioners on July 30, 2009 which included several owners who had been inadvertently omitted from the initial notice mailing.

The Board opened the hearing on July 21, 2009 and continued the hearing to August 18, 2009 and again to September 1, 2009. Notice is not required to be re-issued if the hearing is continued to a specific date.

Other Issues

- **Can a property owner opt in later?** The LID statute allows for properties to be added to an LID after it has been formed. In this case the constraints that will

prevent later expansion of the LID will be the water right and the size of the pumps and pipes, which have been designed to serve only the properties that are signed up. Additional capacity has not been included in the preliminary design.

Any landowners who later signs up for the LID are required by statute to be treated as if they were original petitioners. Latecomers cannot be charged a larger amount than their proportionate share of the benefit.

- **When do payments begin?** Not before the delivery of water.
- **When is water available?** The current schedule anticipates water being available in August 2011. There are several variables in play which can affect the date of availability including finalizing the water right, financing, environmental permitting and the in-water construction window.
- **How much land is KID signed up for?** KID is signed up for 620.5 acres. KID's properties were not part of the initial LID petitions submitted in 2007. The District is required to pay an assessment for each irrigated acre the same as other property owner.
- **Have any lands owned by LID petitioners been excluded?** Yes. Eight properties totaling 33.9 acres are recommend for exclusion due to cost. The owners have been notified.