



COUNCIL AGENDA: 12/10/19  
ITEM: 19-1163  
FILE: 3.10

# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Julia H. Cooper

**SUBJECT:** SEE BELOW

**DATE:** November 18, 2019

Approved

*D. D. Syl*

Date

*11/25/19*

**SUBJECT: CONDUCT A PUBLIC HEARING ON RECORDING LIENS ON PROPERTIES FOR THE REIMBURSEMENT OF THE COST OF SIDEWALK REPAIRS TO BE PLACED ON THE FISCAL YEAR 2020-2021 SANTA CLARA COUNTY SECURED PROPERTY TAX BILL**

## RECOMMENDATION

- (a) Conduct a Public Hearing on recording liens on properties for the reimbursement of the cost of sidewalk repairs;
- (b) Adopt a resolution confirming the Report from the Director of Finance concerning the delinquent sidewalk repair costs and the assessments contained in the report; and
- (c) Direct the recording of liens and the placement of charges as set forth therein on the 2020-2021 Santa Clara County Secured Property Tax Bill for the cost of sidewalk repairs.

## OUTCOME

To recover City funds spent on sidewalk repairs from property owners.

## BACKGROUND

On October 8, 2019, the City Council set a hearing for December 10, 2019 at 1:30 p.m. for public comment and approval of the Report from the Director of Finance (Director's Report) to record liens and the placement of charges on the Santa Clara County (SCC) Secured Property Tax Roll for the cost of sidewalk repairs the City of San Jose made on behalf of property owners.

State law and the San José Municipal Code make it the duty of each property owner to maintain the sidewalk adjacent to their property in a safe condition. When sidewalks need repair, the Department of Transportation (DOT) inspects the property and uses the City's current contractual rates to estimate the cost of repairs. DOT then sends a repair notice, along with the cost estimate, to the property owner. The notice includes financial hardship information for those who need assistance with paying for the sidewalk repairs. Within six weeks after the repair

November 18, 2019

**Subject: Conduct a Public Hearing on Recording Liens on Properties for the Costs of Sidewalk Repairs**

Page 2

notice is sent, DOT mails a second notice to the property owner stating repairs will be made by the contractor, hired by DOT, if the owner does not repair the sidewalk. If the repairs are not made by the owner, a final notice is mailed one week later. Before making repairs, DOT places a door hanger at the property address stating a contractor, hired by the City, will be assigned to make the necessary sidewalk repairs and an invoice will be sent. If repairs are performed by the contractor, DOT invoices the property owner for the cost of sidewalk repairs, including a permit fee.

If the invoice is not paid, the Finance Department sends a 60-day, 90-day, and final notice. To recover the costs of unpaid invoices, the City Council, upon confirming the amounts owed after a public hearing, can approve the filing of liens against the defaulting properties with the SCC Office of the Clerk-Recorder.

Property owners may setup a payment plan or pay the full amount due at any time, prior to the public hearing on December 10, 2019. However, if a balance remains after December 10, 2019, an additional \$117.50 administrative fee will be added. The Director of Finance shall record a lien with the SCC Office of the Clerk-Recorder to secure the special assessment until such time that the special assessment may be placed on the SCC Secured Property Tax Roll. Recording liens against property owners for outstanding sidewalk repair costs helps ensure collection of past due amounts if the property is sold, transferred, or refinanced.

#### *Financial Hardship Assistance Program*

From July 1 to November 15, 2019, DOT approved 44 properties for hardship at an approximate cost of \$106,000. The annual allocation for Tree Maintenance and Sidewalk Repair Financial Hardship Assistance Program within DOT's non-personal/equipment appropriation is approximately \$413,000; consisting of \$338,000 for sidewalk repairs and \$75,000 for tree maintenance. DOT will continue to monitor hardship approvals and associated cost, and coordinate with the City Manager's Budget Office to consider funding adjustments for the hardship program during the Mid-Year Budget process.

#### **ANALYSIS**

The Director's Report includes properties in which the City incurred costs for the sidewalk repairs on behalf of the property owners, of which, payment to the City remains outstanding. The report identifies 58 properties that are subject to a potential lien, for a total lien amount, including administrative fees, of \$115,818.31. Individual lien amounts vary from \$243.90 to \$10,416.79.

Finance Department staff work diligently to recover the costs of delinquent sidewalk repairs; however, in some cases, property owners neglect to pay the outstanding obligations. The City ultimately receives 99% of the amount due through the SCC Secured Property Tax Bill process. Following is a summary of the billing and collection process as it relates to recovering City incurred costs for sidewalk repairs:

- DOT issues initial invoices for sidewalk repairs; payments are due within 30 days.
- Finance Department sends 60-day delinquency notice.
- Finance Department may call the property owner, if telephone contact information is available, to further attempt the collection of delinquent obligations.
- Finance Department sends 90-day delinquency notice and final notice.
- Two Notices of Intent to Lien are sent to each delinquent property owner at the mailing address of record.
- Administrative conferences are held by DOT to provide property owners an opportunity to resolve any issues prior to a public hearing.
- City Council holds a public hearing and authorizes the placement of liens on properties with delinquent obligations.
- SCC Office of the Clerk-Recorder places liens on delinquent properties.
- SCC Office of the Assessor collects delinquent amounts through the annual property tax assessment.
- The full amount assessed (less a 1.0% SCC Tax Collection Fee) is remitted to the City.

## **CONCLUSION**

The Director's Report identifies 58 properties that are subject to lien for a total lien amount of \$115,818.31. The City Council may confirm the Director's Report and the full amounts contained therein or reduce any of the amounts due. In addition, Council may approve placing a lien against the property for the unpaid amount, to be paid with the next annual SCC Secured Property Tax Bill.

The memorandum for the October 8, 2019 Council meeting included 128 properties that were subject to a potential lien for a total lien amount, including administrative fees, of \$192,881.17. Since the submission of that Council memo, the following has occurred:

- 62 accounts have been paid in full.
- 5 accounts have been placed on payment plans.
- 3 accounts forwarded to collection agency due to property sales.

November 18, 2019

**Subject:** Conduct a Public Hearing on Recording Liens on Properties for the Costs of Sidewalk Repairs

Page 4

### **EVALUATION AND FOLLOW-UP**

Finance Department staff will continue their collection efforts in order to reduce the number of delinquent accounts that will be forwarded for collection on the SCC Secured Property Tax Bill. Furthermore, Finance staff will continue to monitor accounts forwarded to the County for collection on the SCC Secured Property Tax Bill for full compliance with the Sidewalk Lien program.

### **CLIMATE SMART SAN JOSE**

The recommendation in this memo has no effect on Climate Smart San José energy, water, or mobility goals.

### **PUBLIC OUTREACH**

Notices of public hearing (Notice of Intent to Lien) were mailed to each property owner on October 15, 2019 and October 22, 2019. These mailings are necessary to properly notify property owners of the date, time, and place of the public hearing and the impending lien on their property, while affording property owners an opportunity to schedule an administrative conference with DOT staff to resolve potential protests prior to the public hearing. The administrative conferences were held on November 5, 2019 and November 6, 2019 in the DOT offices. These conferences do not affect the property owners' right to protest the proposed assessment at the City Council public hearing.

Additionally, this memorandum will be posted on the City's Council Agenda website for the December 10, 2019 Council Meeting.

### **COORDINATION**

This memorandum has been coordinated with the Department of Transportation and the City Attorney's Office.

### **COMMISSION COORDINATION**

This item does not require any input from a board or commission.

HONORABLE MAYOR AND CITY COUNCIL

November 18, 2019

**Subject: Conduct a Public Hearing on Recording Liens on Properties for the Costs of Sidewalk Repairs**

Page 5

**COST SUMMARY/IMPLICATIONS**

By placing a special assessment secured by a lien against each property, the City will recover payment of \$107,944.81 in delinquent sidewalk repair costs in addition to lien fees of \$7,873.50. The total balance in the attached Director's Report is \$115,818.31.

**CEQA:**

Not a Project, File No. PP17-004, Government Funding Mechanism or Fiscal Activity with no commitment to a specific project which may result in a potentially significant physical impact on the environment.

/s/  
JULIA H. COOPER  
Director of Finance

For questions, please contact Rick Bruneau, Deputy Director of Finance, at (408) 535-8310.

Attachment A: Director's Report

## ATTACHMENT A

City of San José - Finance Department										
Report from the Director of Finance - Sidewalk Repair Costs as of October 30, 2019										
Council Meeting: December 10, 2019										
Account #	Citation #	Mailing Address	City, State, Zip	Property Address	APN	Council District	Original Balance	Current Balance	Admin Lien Fees	Total Lien Amount
1163551	X1896385	4824 DOYLE RD	SAN JOSE CA 95129-4318	4824 DOYLE RD	38126007	1	\$ 415.80	\$ 523.17	\$ 135.75	\$ 658.92
1168849	X1898566	259 JAGGERS DR	SAN JOSE CA 95119	259 JAGGERS DR	70416027	2	100.00	108.15	135.75	243.90
1164456	X1896800	7073 VIA BARRANCA	SAN JOSE CA 95139	7073 VIA BARRANCA	70631023	2	100.00	145.00	135.75	280.75
1169460	X1898896	101 AVENIDA ESPANA	SAN JOSE CA 95139	101 AVENIDA ESPANA	70623026	2	148.12	160.20	135.75	295.95
1169009	X1898857	208 NEW RIVER DR	SAN JOSE CA 95119	208 NEW RIVER DR	70442001	2	232.48	251.42	135.75	387.17
1169022	X1898892	760 CASCADE DR	SUNNYVALE CA 94087	267 VINEYARD DR	70432005	2	1,813.20	1,960.98	135.75	2,096.73
1169011	X1898863	111 CHELTENHAM WAY	SAN JOSE CA 95139	111 CHELTENHAM WAY	70619032	2	2,090.30	2,260.66	135.75	2,396.41
1165160	X1897234	130 CHAUCER CT	PLEASANT HILL CA 94523	235 E JULIAN ST	24948012	3	100.00	145.00	135.75	280.75
1163827	X1896514	20199 PACIFICA DR	CUPERTINO CA 95014	558 MARGARET ST	47221085	3	657.10	812.13	135.75	947.88
1168768	X1898545	11070 CHULA VISTA AVE	SAN JOSE CA 95127	1117 APPIAN LN	47202139	3	1,561.44	1,688.70	135.75	1,824.45
1166610	X1897742	1722 ROUTH ST STE 1000	DALLAS TX 75201	550 KEYES ST	47704034	3	1,508.88	1,782.33	135.75	1,918.08
1169116	X1898965	13155 NOEL RD # 500	DALLAS TX 75240	190 RYLAND ST	25951004	3	1,843.20	1,993.42	135.75	2,129.17
1166621	X1897753	4680 HAMILTON AVE 211	SAN JOSE CA 95130	399 S 12TH ST	46741067	3	2,639.83	3,099.32	135.75	3,235.07
1162046	X1894907	315 N 17TH ST	SAN JOSE CA 95112	315 N 17TH ST	24958051	3	2,478.00	3,157.61	135.75	3,293.36
1163866	X1896553	1670 MCKEE RD	SAN JOSE CA 95109	453 N 20TH ST	24961026	3	3,598.92	4,334.96	135.75	4,470.71
1168775	X1898552	4057 GOLF DR	SAN JOSE CA 95127	0 S 30TH ST	46734151	3	6,849.08	7,407.28	135.75	7,543.03
1162854	X1895213	2197 BRISTOLWOOD LN	SAN JOSE CA 95132	2197 BRISTOLWOOD LN	09222031	4	3,429.65	1,994.79	135.75	2,130.54
1169904	X1899429	3357 ARAMIS DR	SAN JOSE CA 95127	3357 ARAMIS DR	64708006	5	100.00	108.15	135.75	243.90
1171755	X1899327	3345 MT RAINIER DR	SAN JOSE CA 95127	3345 MT RAINIER DR	64729001	5	102.14	110.47	135.75	246.22
1168536	X1898399	1800 EVANS LN APT 1106	SAN JOSE CA 95125	648 GRIDLEY ST	59914018	5	100.00	139.65	135.75	275.40
1168684	X1898530	3574 GLASGOW CT	SAN JOSE CA 95127	3574 GLASGOW CT	60130061	5	100.00	139.65	135.75	275.40
1169872	X1899405	13658 WESTBORO DR	SAN JOSE CA 95127	13658 WESTBORO DR	48428027	5	100.00	139.65	135.75	275.40
1169878	X1899411	691 HOBIE LN	SAN JOSE CA 95127	691 HOBIE LN	60133059	5	100.00	139.65	135.75	275.40
1164300	X1896710	1650 TAMPA CT	SAN JOSE CA 95122	2397 AMADOR DR	48638006	5	148.12	202.64	135.75	338.39
1162458	X1895038	2963 RIDGEMONT DR	SAN JOSE CA 95127-4649	2963 RIDGEMONT DR	48820007	5	859.56	786.31	135.75	922.06
1163863	X1896550	77 LAS COLINAS LN	SAN JOSE CA 95119	1545 HERMOCILLA WAY	48173050	5	748.80	921.94	135.75	1,057.69
1168612	X1898475	1709 LEEWARD DR	SAN JOSE CA 95122	1709 LEEWARD DR	48630072	5	1,286.31	1,481.97	135.75	1,617.72
1162454	X1895034	1716 SUNDOWN LN	SAN JOSE CA 95127	1716 SUNDOWN LN	48820056	5	3,446.49	4,267.52	135.75	4,403.27
1166019	X1897556	3144 TRISTIAN AVE	SAN JOSE CA 95127	3144 TRISTIAN AVE	59904073	5	3,584.64	4,317.85	135.75	4,453.60
1163429	X1895362	2975 RIDGEMONT DR	SAN JOSE CA 95127	2975 RIDGEMONT DR	48820004	5	5,245.78	6,480.18	135.75	6,615.93
1169627	X1899247	3389 BRADEN CT	SAN JOSE CA 95148	1349 STAYNER RD	49464023	7	100.00	108.15	135.75	243.90
1169847	X1899380	2649 LANIER LN	SAN JOSE CA 95121	2649 LANIER LN	49912072	7	100.00	139.65	135.75	275.40
1166233	X1897608	7595 LIME AVE	FONTANA CA 92336	1973 MCLAUGHLIN AVE	47736067	7	100.00	141.70	135.75	277.45
1165998	X1897538	3805 POLTON PLACE WAY	SAN JOSE CA 95121	3805 POLTON PLACE WAY	67681015	7	100.00	145.00	135.75	280.75
1168607	X1898470	1645 YERBA BUENA RD	SAN JOSE CA 95121	1645 YERBA BUENA RD	67643089	7	1,587.46	1,822.70	135.75	1,958.45
1155471	X1891063	231 CASTILLON WAY	SAN JOSE CA 95119	1244 BELLINGHAM DR	49908023	7	2,428.26	3,250.06	135.75	3,385.81
1168582	X1898445	1604 TIERRA BUENA DR	SAN JOSE CA 95121	1604 TIERRA BUENA DR	67009001	7	4,950.87	5,628.40	135.75	5,764.15
1164730	X1896979	4077 LAWTHER CT	SAN JOSE CA 95135	4077 LAWTHER CT	66024054	8	100.00	145.00	135.75	280.75
1165534	X1897376	3107 DELTA RD	SAN JOSE CA 95135	3107 DELTA RD	66028002	8	148.12	202.64	135.75	338.39
1166000	X1897540	3884 MARE PLACE CT	SAN JOSE CA 95121	3884 MARE PLACE CT	67911020	8	148.12	202.64	135.75	338.39
1166527	X1897705	3058 LYNVIEW DR	SAN JOSE CA 95148-3010	3058 LYNVIEW DR	65919032	8	331.20	410.93	135.75	546.68
1166535	X1897713	2650 MOZART AVE	SAN JOSE CA 95122-1313	2650 MOZART AVE	67024021	8	643.05	774.08	135.75	909.83
1165530	X1891576	1460 N 4TH ST #305	SAN JOSE CA 95112	1897 DANIEL MALONEY DR	67609042	8	1,503.20	1,075.87	135.75	1,211.62
1166543	X1897721	2881 SWEETLEAF CT	SAN JOSE CA 95148	2881 SWEETLEAF CT	65229011	8	1,857.80	2,188.66	135.75	2,324.41
1165962	X1897530	2838 BURDICK WAY	SAN JOSE CA 95148	2838 BURDICK WAY	67306028	8	1,918.00	2,322.05	135.75	2,457.80
1162068	X1894929	2608 BRAHMS AVE	SAN JOSE CA 95122	2608 BRAHMS AVE	67023064	8	1,908.74	2,438.38	135.75	2,574.13
1167697	X1898135	3214 FLINTDALE DR	SAN JOSE CA 95148	3214 FLINTDALE DR	64927045	8	2,259.75	2,657.98	135.75	2,793.73
1166542	X1897720	2844 IVY ESTATES CT	SAN JOSE CA 95135	2844 IVY ESTATES CT	66013024	8	2,351.24	2,763.26	135.75	2,890.01
1151668	X1889250	2804 SCHOONER CT	SAN JOSE CA 95148	2804 SCHOONER CT	65917083	8	2,473.08	3,389.44	135.75	3,525.19
1166536	X1897714	4468 YERBA BUENA AVE	SAN JOSE CA 95121	4468 YERBA BUENA AVE	67672003	8	3,043.20	3,569.06	135.75	3,704.81
1166540	X1897718	3260 MONTECITO DR	SAN JOSE CA 95135	3260 MONTECITO DR	66053086	8	4,428.66	5,182.42	135.75	5,318.17
1169615	X1899235	2485 KINGFIELD WAY	SAN JOSE CA 95124	2485 KINGFIELD WAY	42112045	9	100.00	108.15	135.75	243.90

Account #	Citation #	Mailing Address	City, State, Zip	Property Address	APN	Council District	Original Balance	Current Balance	Admin Lien Fees	Total Lien Amount
1167935	X1898164	5328 ALAN AVE	SAN JOSE CA 95124	5328 ALAN AV	56708030	9	100.00	139.55	135.75	275.30
1163865	X1896552	2135 LOS GATOS-ALMADEN RD	SAN JOSE CA 95124	2135 LOS GATOS-ALMADEN RD	42121006	9	2,399.32	2,898.45	135.75	3,034.20
1162554	X1895101	1149 OLD OAK DR	SAN JOSE CA 95120	1149 OLD OAK DR	58115020	10	100.00	174.93	135.75	310.68
1166929	X1897849	200 WINCHESTER CIR #C115	LOS GATOS CA 95032	5944 CABRAL AVE	69431010	10	334.02	414.21	135.75	549.96
1167190	X1897937	5540 ENTRADA CEDROS	SAN JOSE CA 95123	5540 ENTRADA CEDROS	46414046	10	3,678.10	4,309.66	135.75	4,445.41
1167209	X1897948	859 BLOSSOM HILL RD	SAN JOSE CA 95123	859 BLOSSOM HILL RD	46435027	10	8,805.95	10,281.04	135.75	10,416.79
<b>58 Accounts</b>							<b>\$ 93,485.98</b>	<b>\$ 107,944.81</b>	<b>\$ 7,873.50</b>	<b>\$ 115,818.31</b>