



# AGENDA REPORT

## Public Works

<b>DATE:</b>	March 1, 2022
<b>TO:</b>	Mayor Butt and Members of the City Council
<b>FROM:</b>	Joe Leach, Director of Public Works
<b>Subject:</b>	Adopt an Interim Ordinance Extending Urgency Ordinance No. 01-22
<b>FINANCIAL IMPACT:</b>	An Interim Ordinance extension would likely impact City finances temporarily because it would prohibit the City from issuing building permits requiring new connections to Keller Beach Sanitary Sewer ("KBSS"). New-construction building permits, for example, can include impact fees for City services.
<b>PREVIOUS COUNCIL ACTION:</b>	January 18, 2022
<b>STATEMENT OF THE ISSUE:</b>	Urgency Ordinance No. 1-22, adopted on January 18, 2022, and expiring March 4, 2022, created a temporary, 45-day moratorium on the issuance of building permits for new Keller Beach Sanitary Sewer (KBSS) connections. It also created an "urgency thereof" based on a KBSS report documenting compromised pipe conditions with a risk of imminent pipe failure. New sewer connections resulting in increased KBSS use heighten this failure risk and the resulting environmental and public safety concerns. Proposed Interim Ordinance extension expires in 10 months and 15 days, unless subsequently extended for one (1) year.

<b>RECOMMENDED ACTION:</b>	HOLD a public hearing; and ADOPT an Interim Ordinance establishing a 10-month and 15-day extension of Urgency Ordinance No. 01-22 imposing a temporary moratorium on issuance of building permits requiring new sewer connections to the Keller Beach Sanitary Sewer; and declaring an urgency thereof – Public Works Department (Joe Leach 510-620-5478).
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## **DISCUSSION:**

On January 18, 2022, pursuant to Government Code Section 65858 (“GC Section 65858”), the City Council adopted Urgency Ordinance No. 01-22 N.S. (hereinafter “Urgency Ord. No. 01-22”), which established a 45-day moratorium (to expire March 4, 2022) on the issuance of building permits requiring sewer connections to the Keller Beach Sanitary Sewer (KBSS) and declaring the urgency thereof.

Also on January 18, 2022, the City Council adopted Resolution No. 08-22, which accepted the findings of the Keller Beach Sanitary Sewer CCTV review and assessment report (“KBSS Review and Assessment Report”), dated January 3, 2022.

The KBSS Review and Assessment Report identified a severely compromised pipe and concluded that KBSS should undergo extensive repairs, which would address critical issues; or a pipe replacement and relocation, which would alleviate the critical issues but incur cost and time considerations.

The City will perform an in-depth study of alternatives and seek expert consultation; hire contractors; and perform evaluative assessments to devise the best solution, while taking into consideration environmental and public health concerns. By necessity, the City needs time to coordinate its study efforts in a reasonable way with federal, state, and local agencies; property owners; and other interested stakeholders to preserve public health, safety, and welfare.

Government Code section 65858(a) authorizes the City Council to extend Urgency Ordinance No. 01-22 for ten (10) months and fifteen (15) days following notice and a public hearing. An extension requires a four-fifths vote of the City Council for adoption (i.e., six [6] votes), and the City Council may subsequently extend for one (1) year.

The sanitary sewer issues presented by KBSS’ condition create an imminent threat to the public health, safety, and welfare, as well as the environment, in the Sewer Moratorium Area; and a moratorium on the issuance of building permits requiring new connections to KBSS will prevent further deterioration and pipe destruction. Further, development that requires additional sewer connections to KBSS would result in specific and quantifiable adverse impacts to sanitation infrastructure; the ability to safely and timely repair infrastructure failures; environmental degradation; and the risk of an immediate threat to the public’s health, safety, and welfare. The City has also not

identified any actions, other than the moratorium's adoption, that would be less burdensome or restrictive; or that would satisfactorily mitigate or avoid the specific, adverse impacts KBSS' condition presents.

On February 18, 2022, the City completed and posted a written report ("Report") describing the measures taken to alleviate the condition that led to the adoption of the urgency ordinance. In particular, Public Works is mid-process in executing a work authorization for consultants to complete the next-stage feasibility study and evaluation of alternatives, including but not limited to alternate alignments to, and sewerage of, properties. The Department is also creating an informational webpage where affected property owners can obtain information about the moratorium, including petitioning for relief.

#### **ALTERNATIVES CONSIDERED:**

1. Extend Interim Ordinance on Moratorium as proposed for 10 months and 15 days with a possible one-year extension; or,
2. Take no action, whereby the moratorium expires on March 4, 2022.

#### **DOCUMENTS ATTACHED:**

Attachment 1 – Draft of Proposed Interim Ordinance Extending Temporary Moratorium  
Attachment 2 – 10-Day Report Issued Pursuant to Government Code, Section 65858(d)  
Attachment 3 – Keller Beach Sewer Moratorium Area Map  
Attachment 4 – Urgency Ordinance No. 01-22 N.S., adopted January 18, 2022