



CITY OF LODI

COUNCIL COMMUNICATION

AGENDA TITLE: Council Direction Regarding Request for Advance Payment of Uncollected/Delinquent 2003 Assessments to the Downtown Lodi Business Partnership (\$5000)

MEETING DATE: May 21, 2003

PREPARED BY: Management Analyst, City Manager's Office

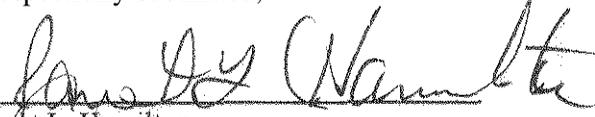
RECOMMENDATION For Council direction regarding request of an advance payment of uncollected/delinquent 2003 assessments to the Downtown Lodi Business Partnership (\$5000).

BACKGROUND On May 12, 2003, the City received a letter from the Downtown Lodi Business Partnership (DLBP) requesting a \$5000 advance on uncollected/delinquent 2003 assessments (Exhibit 4). To date, the City has billed the full 2003 assessment amount of \$34,100, collected and submitted to the DLBP approximately \$25,600, leaving a balance of uncollected fees of approximately \$8,700. According to City Ordinance 12.06.090 (Exhibit R), the "City will bill and collect the (assessment) fees, at no charge to the area and forward all funds collected to the area within 30 days of such collections". If granted, authorization of this request would be an exception to the City's Ordinance.

FUNDING: Contingency Fund

ATTACHMENTS

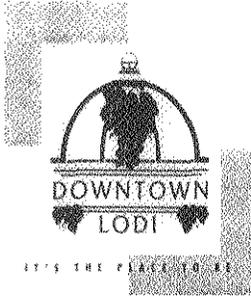
Respectfully submitted,



Janet L. Hamilton
Management Analyst

APPROVED: _____


H. Dixon Flynn -- City Manager



DOWNTOWN LODI BUSINESS PARTNERSHIP
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P.O. BOX 1565
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MAY 12 2003
CITY MANAGER'S OFFICE

EXHIBIT A

May 12, 2003

Mr. Dixon Flynn
City Manager
City of Lodi
City Hall
Lodi, CA

Subject: Request for advance ..\$5,000... PAST DUE ASSESSMENTS

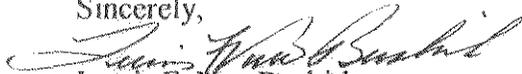
Dear Dixon:

This is to confirm our conversation of May 7th, and our request for a \$5,000 advance on ... uncollected/delinquent 2003 assessments.

We are experiencing cash flow problems due to approximately \$11,000 in uncollected assessments and penalties dating from 2002 back through 2001. In addition we have only been paid for 2003 collections in the amount of \$25,000, leaving another approximately \$9,000 past due for this year. ... or a total outstanding uncollected assessments and penalties of \$20,000.

If you have any additional questions, please do not hesitate to call me.

Sincerely,


Lewis F. Van Buskirk,
Executive Director.

Cc DLBP Board of Directors

Title 12 STREETS, SIDEWALKS AND PUBLIC PLACES

Chapter 12.06 DOWNTOWN LODI BUSINESS IMPROVEMENT AREA NO. 1

12.06.010 Resolution of intention, public hearing and findings.

The recitals hereof, which set forth facts regarding the adoption of council resolutions, the conduct of public hearings and certain findings of the city council, are true and correct and incorporated in this chapter by reference. (Ord. 1654 § 1 (part), 1997)

12.06.020 Definitions.

In order to distinguish between area businesses and for the purpose of calculating and applying the amount of benefit fees owed, the following definitions shall apply:

A. Billing Period. "Billing period" refers to the period beginning January 1st to and including December 31st of any year.

B. "Financial" means banks, savings and loans, credit unions, etc.

C. Lodging "Lodging" businesses mean and include inns, hotels, motels, RV parks and other similar businesses.

D. Professional. "Professional" means and includes attorneys, architects, accountants, engineers, surveyors, physicians, dentists, optometrists, chiropractors and others in a medical/health service field, consultants, real estate brokers, financial advisors, laboratories (including dental and optical), hearing aid services, artists and designers

E. Restaurants. "Restaurant" businesses mean and include cafes, eating establishments, sandwich shops, dinrrer houses, restaurants and fast food services and other similar businesses.

F. Retail Businesses. "Retail businesses" means and includes all businesses not covered by other definitions set out in this section, at least fifty percent of whose gross income is derived from "retail sales" as that term is defined under the California Saies and Use Tax Law. The fact that a substantiai part of its business consists of sales other than retail sales does not exciude such business from this classification so long as such other business component does not account for more than fifty percent of such business' gross income.

G. Service. "Service" businesses mean and include general office, news and advertising media, printers, photographers, personal care facilities and outlets, service stations, repairing and servicing businesses, renting and leasing businesses, utilities, vending machine businesses, household finance companies, entertainment businesses, theaters and other similar

businesses not otherwise included in Types 1, 2, and 4, Section 12.06.050, or definitions B, C, D, E or F of this section. (Ord. 1654 § 1 (part), 1997)

12.06.030 Establishment of boundaries

A parking and business improvement area is established pursuant to the Parking and Business Improvement Area Law of 1989, Streets and Highways Code Section 36500 et seq. (the Act). The boundaries of the area and the benefit zones within the area shall be as set forth on Exhibit A, attached hereto and incorporated in this chapter by reference. This area shall be known as the "downtown Lodi business improvement area No. 1" (the "area"). (Ord. 1654 § 1 (part), 1997)

12.06.040 Establishment of area board of directors.

There shall be a board of directors ("board") of the area to administer the affairs of the area. The board shall be composed of no less than ten nor more than twenty-five member businesses of the area. The initial board shall be approved by the city council from a list of business operators located in the area that is submitted by the business improvement area formation committee. Within the board there shall be a president, vice-president, secretary and treasurer elected by the membership, and such other officers as deemed necessary by the board. Such other officers shall be appointed by the board of directors at their discretion. All voting within the area regarding election of board members and any actions regarding the normal and routine conducting of area business shall be based on one vote per benefit fee dollar, and such voting business must be current in payment of their area benefit fee(s) to participate in such votes. (Ord. 1654 § 1 (part), 1997)

12.06.050 Establishment of benefit fee

All businesses; trades and professions located within the area boundaries shown on Exhibit A, attached to the ordinance codified in this chapter, shall, commencing January 1, 1998, pay an annual benefit fee in the following amounts:

LODI AREA ANNUAL BENEFIT FEE

Type	Zone A	Zone B
1. Retailers	\$200.00 (1--3 employees)	\$100.00
and	300.00 (4--6 employees)	150.00
restaurants	400.00 (7+ employees)	200.00
2. Service Businesses	\$150.00	\$ 75.00
3. Professional Businesses	\$100.00	\$ 50.00
4. Financial Institutions	\$500.00	\$500.00

(Ord. 1654 § 1 (part), 1997)

12.06.060 Purpose and use of benefit fees.

The types of improvements and activities proposed to be funded by the benefit fee paid by businesses in the area are as follows:

A. Improvements including the acquisition, construction, installation or maintenance of any tangible property with an estimated useful life of five years or more including, but not limited to, the following improvements:

1. Benches;
2. Trash receptacles;
3. Decorations;
4. Facade improvements;
5. Permanent landscaping.

B. Activities including but not limited to the following:

1. Promotion of public events which benefit businesses in the area and which take place on or in public places within the area;
2. Furnishing of music in any public place in the area;
3. Activities which benefit businesses located and operating in the area, including but not limited to downtown shopping and promotional programs.
(Ord. 1654 § 1 (part), 1997)

12.06.070 Exclusions from benefit fees.

No person or business shall be required to pay a fee based on: (A) a residential use of the property within the area, or (B) a nonprofit organization as defined by Section 501(c)(3) or 501(c)(6) of the Internal Revenue Service Code located within the area. (Ord. 1654 § 1 (part), 1997)

12.06.080 New business fee waiver.

Any new business established within the area shall not be required to pay a fee for the billing period during which such business is initiated. The business will have been considered initiated on the date of issuance of the business license. This waiver shall not apply to an existing business that has changed ownership or location within the area. City agrees to supply the area board with timely information regarding new businesses initiated within the area. (Ord. 1654 § 1 (part), 1997)

12.06.090 Collection of benefit fee.

The benefit fee authorized by this chapter, for Lodi businesses (Section 12.06.050 hereof), shall be billed and collected once each billing period on January 1st. ~~City will bill and collect the fees, at no charge to the area and forward all funds collected to the area within thirty days of such collections~~ Late payment penalties shall be applied to businesses that do not provide their respective fee payments on the dates provided for in this chapter at a rate of ten percent per month. At such time as late payment penalties equate to fifty percent of the total annual fee, action shall be taken to recover such delinquent fees. Costs of this recovery shall be borne by the business owing the fee and late penalties. The board and city shall develop collection procedures to implement the provisions of this section. (Ord. 1654 § 1 (part), 1997)

12.06.100 Voluntary contributions to area

Contributions to the area and its board shall be permitted on a voluntary basis. The boundary of the area shall not be modified as a result of the contribution, nor shall such contributing business be considered a member of the area for voting or other purposes. However, such business making a voluntary contribution may be entitled to participate in the programs of the area upon a finding by the board of directors that the area derives a benefit from such business' participation in the program. (Ord. 1654 § 1 (part), 1997)

12.06.110 Annual budget process.

Pursuant to the Act, it shall be necessary for the board to present, by September 1st, an annual budget for city council review and approval prior to the beginning of any billing period. The purpose of this process is to comply with the Act provisions regarding public notice and hearing prior to establishing the benefit fees for the following billing period. City shall not adopt, modify or otherwise amend any billing period budget of the area that is inconsistent in any way with such billing period's budget as agreed to and presented by the board except in the case of a written majority protest (regarding elimination or modification of any specific budget item) from business owners which will pay fifty percent or more of the fees proposed to be levied as to any specific budget item pursuant to Streets and Highways Code Section 36525(b). In such case the written protest regarding any specific budget item shall be grounds to eliminate or modify such expenditure from the area's proposed budget pursuant to the written protest. (Ord. 1654 § 1 (part), 1997)

12.06.120 Decisions regarding expenditure of funds

As provided for within the guidelines of the Act, decisions of the board regarding expenditure of all funds generated under this program shall be final. (Ord. 1654 § 1 (part), 1997)

12.06.130 Area proceeds do not offset city services

City specifically finds and declares that the funds derived from the area shall not be used to offset or diminish current maintenance, capital improvement programs, including but not limited to, public property and sidewalk cleaning, street cleaning and maintenance, tree maintenance, restroom cleaning and maintenance. The city declares its intent to provide at least the same level

and standard of maintenance and repair of public property within the area providing city funds are available from year to year (Ord 1654 § 1 (part), 1997)

12.06.140 Public parking.

The proceeds of the benefit fees established hereunder shall not be used to acquire and/or construct additional public parking, unless such use of the funds is first approved by a majority vote of the area members voting. (Ord. 1654 § 1 (part), 1997)

12.06.150 Disestablishment of the area

Proceedings to disestablish the area shall be initiated by the city council following the presentation of a petition to the city council signed by business owners paying fifty percent or more of the fees levied in the area. Proceedings to disestablish the area shall follow the procedures set forth in Streets and Highways Code Section 36550. The city council shall disestablish the area if, following the public hearing prescribed in Section 36550(b), written protests are not withdrawn so as to reduce the protests below the fifty percent level. In the event of disestablishment of the area, remaining revenues of the area maintained by the board shall be refunded to paying business owners in a pro-rata manner calculated in the same manner as was used to establish the most recent fees applied in the area. (Ord. 1654 § 1 (part), 1997)