



**CITY OF LODI  
COUNCIL COMMUNICATION**

**AGENDA TITLE:** Authorize City Manager to Execute Fee Adjustment Agreement for Vintage Oaks Subdivision

**MEETING DATE:** May 17, 2006 (Carried over from April 19 meeting)

**PREPARED BY:** Public Works Director

**RECOMMENDED ACTION:** That the City Council authorize the City Manager to execute an impact fee adjustment agreement for Vintage Oaks Subdivision.

**BACKGROUND INFORMATION:** On November 3, 2004, Council approved Resolution No. 2004-239 which updated development impact mitigation fees. The old fee was \$57,266 per acre and it increased by \$13,475 to \$70,741 per acre, or 24%, effective January 2005, including the regular *Engineering News-Record* update. At that time, following public discussion, the Council provided in the resolution for a window of time for projects with a completed development application to pay the fees at the previous rate provided the fees were actually paid by December 31, 2005.

On September 21, 2005, the City Council approved the Final Map and Improvement Agreement for the Vintage Oaks Subdivision project which included the following language regarding payment of impact fees:

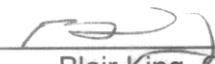
Development Impact Mitigation Fees for water, wastewater, street improvements, storm drain, police, fire, parks and recreation and general city facilities are required for this project. Payment of the fees shall be deferred until the project is ready for acceptance. Acceptance of the public improvements will be contingent upon payment of the deferred fees. The amounts shown in this agreement for these deferred fees are those in effect at the time of execution of this agreement and are subject to revision if not paid prior to January 1, 2006, in conformance with Resolution No. 2004-238, approved by the City Council on November 3, 2004. If the deferred fees are not paid prior to January 1, 2006, the actual fees to be paid will be those in effect at the time of payment. If payment for the deferred fees is made on or after January 1, 2006, this agreement shall in no way limit the City's ability to charge the Developer the fees in effect at the time the Developer pays the deferred fees.

On December 21, 2005, the City Council adopted another resolution effectively eliminating this fee window, providing that "The increased fees in Resolution No. 2004-238 will not apply to any project which has satisfied all elements necessary under California Law to be exempt from increases in impact fees."

On January 31, 2006, the City sent a letter to the Vintage Oaks developers, represented by Mr. Jeffrey Kirst, with an updated invoice for the fees, since the project was nearing completion. The fees increased by \$51,693.07 (from \$249,576.47 to \$301,269.54). Staff's position is that had he contacted us regarding paying the fees in December of 2005, we would have accepted payment at the previous rates.

The developer was well aware of the scheduled increase (he spoke at the Council meeting in 2004), however, he was under the impression he fell within the "window" for the previous fees and is disputing the increase being applied to his project. He has also stated that had he known staff would have

APPROVED:

  
Blair King, City Manager

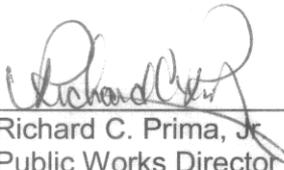
accepted the fees, they would have been paid in December. Finally, he notes that completion of his project was delayed due to City work on Lower Sacramento Road and related coordination issues.

Due to the communication not being entirely clear and the desire to avoid a formal dispute, we have agreed that splitting the increase in half is a reasonable compromise.

Staff has also made it clear to the developer that waiver of all or part of the fees would require Council approval. If approved, the City Attorney would draft a simple agreement describing the fee reduction for execution by the applicant and the City Manager.

**FISCAL IMPACT:** Approval would mean losing \$25,846.54 in fee program revenue but avoiding potential, unknown costs to resolve any formal dispute.

**FUNDING AVAILABLE:** Not applicable.

  
Richard C. Prima, Jr.  
Public Works Director



RCP/pmf

cc: Jeffery Kirst, Vintage Oaks L.P.

filed 5-17-06  
J. Kirst  
Item K-1

March 15, 2006  
Revised May 15, 2006

### Vintage Oaks Issues

1. Project was limited to particular work days due to Lower Sac Work
  - a. Concrete work and repairs were limited to Saturday
  - b. Paving was limited to Saturday

Received billing for Saturday inspection overtime, but that was due to restriction caused by the City's project.

2. Although the City agreement indicates that Vintage Oaks was to install and plant all of the required landscaping, I was told by Mr. Sandelin that Vintage Oaks was responsible for work up to and including it's wall, City would do all other work with the Lower Sac project. The landscape work is outside the wall. There was so much negotiating between the City and adjacent neighbors to get the Lower Sac project started on time I assumed that the City staff wanted control of the right of way, so I did not consider this to be an issue with credits or charges to be calculated by the City later and because I asked Mr. Sandelin two different occasions and was told the same thing, the City would construct everything outside the wall.
  - a. When the right of way boundary line and wall location became an issue, I was then told landscape work was developer responsibility as shown in the agreement
  - b. Due to that, sleeves that were to cross Vintage Oaks Court for the irrigation line and landscape controller wire were left out by Vintage Oaks as it was on Landscape plans and outside the block wall, so Vintage Oaks thought that the City was doing that work.
3. City work also left out irrigation line in Lower Sac to feed City Landscaping on Lower Sac.
  - a. Looking to solve the problem Mr. Sandelin first had said the City would provide tap down at Park entrance. Developer will have to trench 600' and install line for landscaping. Staff did not want to cut Lower Sac pavement to install the line. OR tap into Vintage Oaks fire hydrants and trench 400' of line under driveways.
  - b. Later, City staff proposed to install a water tap from Lower Sac near as was originally designed and that Vintage Oaks bore by the most efficient means and install a 3" sleeve, in lieu of a 2 - 4" sleeves. This would allow a 1-1/2" waterline and the controller wire. We received approval for reducing the water line to 2" to 1-1/2" line after recalculating the irrigation area by the landscape engineers.
  - c. Vintage Oaks agreed to install the sleeve at a cost of around \$1,500, even though there was initial confusion about who was to install the original sleeves. Vintage Oaks contractor started to install using a pneumatic "missile" that would bore and pull the sleeve across. Vintage Oaks was stopped by the City Inspector as he felt that the method would not meet City standards. Met with Rich and Mr. Sandelin to confirm that it could work if installed with rolled type sleeving material.

- d. Restarted the installation of the sleeve, Inspector still felt that there was too much doubt in this method and the contractor finally quit.
  - e. Out of concern and frustration, Vintage Oaks has agreed to bring in a boring machine contractor at a cost between \$3,000 to \$4,000 to finally complete this part of the problem. Estimated to be complete by May 22<sup>nd</sup>.
  - f. City has still not confirmed when the irrigation line service, that was left out of the City's work, will be installed so that Vintage Oaks can complete the landscape work, further delaying the completion of the project.
4. The City's project engineer for Lower Sac did not design or stake the right of way correctly creating a problem with the landscape strip left between sidewalk and Vintage Oaks wall.
- a. Realized problem around 11/10/5
  - b. Met with Mr. Sandelin, Wes, Rich Thomas, Paul Scheider, and myself onsite on 11/15/05 . Mr. Sandelin said I must donate 2 feet of land along Lower Sac to City to fix mistake. If not, he would not accept project.
  - c. Paul at Siegfried prepared plans on 11/21/05 to show extent of problem. Gave Mr. Sandelin land cost to pay for land if City wanted to purchase as lot was already mapped and sold.
  - d. Met with Rich & Mr. Sandelin on 11/30/05 to discuss options. City agreed to leave frontage alone, but Vintage Oaks would grant the City an easement for the wall return at no land cost to the City for the taking.
  - e. Prepared exhibits and restaked wall at new locations. On 12/13/06. Started raining at that time.
  - f. Rain made work impossible until mid January.
  - g. Wall completed by end of January. Requested invoice for final fees.
  - h. Received fee invoice with fee increase and billing for overtime.

**In summary, Vintage Oaks does not feel that it owes the City any additional fees or overtime invoices as it was predominately the City's Engineering Sub-Contractor that delayed the project past the point of completion when the rains started and delayed the project into the new billing cycle.**

CITY COUNCIL  
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Mayor  
BOB JOHNSON,  
Mayor Pro Tempore  
JOHN BECKMAN  
LARRY D. HANSEN  
JOANNE MOUNCE

# CITY OF LODI



**PUBLIC WORKS DEPARTMENT**  
CITY HALL, 221 WEST PINE STREET / P.O. BOX 3006  
LODI, CALIFORNIA 95241-1910  
TELEPHONE (209) 333-6706 / FAX (209) 333-6710  
EMAIL [pwdept@lodi.gov](mailto:pwdept@lodi.gov)  
<http://www.lodi.gov>

BLAIR KING,  
City Manager

SUSAN J. BLACKSTON,  
City Clerk

D. STEPHEN SCHWABAUER,  
City Attorney

RICHARD C. PRIMA, JR.,  
Public Works Director

May 11, 2006

Vintage Oaks, L.P.  
c/o Tokay Development  
Mr. Jeffery Kirst  
P.O. Box 1259  
Woodbridge, CA 95258

**SUBJECT:** Authorize City Manager to Execute Fee Adjustment Agreement for  
Vintage Oaks Subdivision

Enclosed is a copy of background information on an item on the City Council agenda of Wednesday, May 17, 2006. The meeting will be held at 7 p.m. in the City Council Chamber, Carnegie Forum, 305 West Pine Street.

This item is on the regular calendar for Council discussion. You are welcome to attend.

If you wish to write to the City Council, please address your letter to City Council, City of Lodi, P. O. Box 3006, Lodi, California, 95241-1910. Be sure to allow time for the mail. Or, you may hand-deliver the letter to City Hall, 221 West Pine Street.

If you wish to address the Council at the Council Meeting, be sure to fill out a speaker's card (available at the Carnegie Forum immediately prior to the start of the meeting) and give it to the City Clerk. If you have any questions about communicating with the Council, please contact Susan Blackston, City Clerk, at 333-6702.

If you have any questions about the item itself, please call me at 333-6759.

*R. Prima*

For: Richard C. Prima, Jr.  
Public Works Director

RCP/pmf

Enclosure

cc: City Clerk