



CITY OF LODI

COUNCIL COMMUNICATION

AGENDA TITLE: Adoption of Ordinance No. 1527 entitled, "An Ordinance of the Lodi City Council Relating to Public Improvement Reimbursements for Construction"

MEETING DATE: November 6, 1991

PREPARED BY: City Clerk

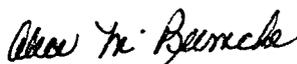
RECOMMENDED ACTION: Following reading by title, it would be appropriate for the City Council to adopt Ordinance No. 1527.

BACKGROUND INFORMATION: Ordinance No, 1527 entitled, "An Ordinance of the Lodi City Council Relating to Public Improvement Reimbursements for Construction" was introduced at the regular meeting of the Lodi City Council held October 16, 1991.

Pursuant to State statute, ordinances may be adopted five days after their introduction following reading by title.

This Ordinance has been approved as to form by the City Attorney.

FUNDING : None required.


Alice M. Reimche
City Clerk

AMR/jmp

APPROVED _____

THOMAS A. PETERSON

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ORDINANCE PREPARED BY PUBLIC WORKS DEPARTMENT

ORDINANCE NO. 1527

AN ORDINANCE OF THE LODI CITY COUNCIL
RELATING TO PUBLIC IMPROVEMENT REIMBURSEMENTS FOR CONSTRUCTION

BE IT ORDAINED BY THE LODI CITY COUNCIL AS FOLLOWS:

Section 1. Chapter 16.40 is hereby added to Title 16 - "Subdivisions" of the Lodi Municipal Code to read as follows:

Chapter 16.40

Reimbursements For Construction

16.40.010 Findings and Purpose.

The Council hereby finds and declares as follows:

A. Construction of new streets and water, sewer and storm drains often benefits other properties. Such benefit may occur through the provision of supplemental capacity (oversize lines) or installations across or opposite unserved property which would be required to make such improvements upon development or service connection.

B. The State of California, in Government Code Sections 66485 through 66489 requires that the City either pay for or enter into an agreement to reimburse the installing party, including an amount attributable to interest for such installations. To pay the costs as required by the reimbursement agreement, the City may collect funds from the other properties which benefit from such installations.

C. The City of Lodi has adopted a Development Impact Mitigation Fee ordinance (Chapter 15.64 of the Lodi Municipal Code) which provides for reimbursement and collection of funds under only a portion of the circumstances described in (A) above.

D. The purpose of that chapter is to identify the improvements which are reimbursable under the Development Impact Mitigation Fee program and to provide a uniform reimbursement procedure for the cost of improvements which are to be reimbursed from other properties. For purposes of this chapter, "applicant" shall mean the owner of the property for which the improvements are being installed or are required to be installed per the City Code.

16.40.020 Improvements to be Reimbursed.

A. The cost of the following improvements shall be reimbursed from the appropriate Development Impact Mitigation Fee Fund. The terms of the reimbursement shall be in accordance with Chapter 15.64 of this Code.

- 1) Oversize water mains and major crossings required per Chapter 13.08 of this Code;
- 2) Oversize sewers and storm drains required per Chapter 13.12 of this Code;
- 3) Excess width street construction and right-of-way required per Chapter 15.44 and 16.24 of this Code;
- 4) Any other construction identified in the City Capital Improvement program as a project to be funded with Development Impact Mitigation Fees.

B. The cost of other improvements which benefit other property or would be required of that property upon development, shall be reimbursed in accordance with this chapter.

16.40.030 City Eligibility.

Whenever the City constructs improvements meeting the requirements of this chapter, the City shall be eligible for reimbursement in a like manner as other applicants.

16.40.040 Application for Reimbursement.

A. Whenever an applicant constructs improvements eligible for reimbursement under this chapter, the applicant shall file a request with the Public Works Director. The request shall include:

- 1) A description of the improvements and the additional properties receiving the benefit;
- 2) Engineering calculations and data as described in the City's Public Improvement Design Standards;
- 3) An itemized cost estimate for the improvements;
- 4) Application fees as determined by City resolution.

B. All such applications shall be filed no later than one year after the acceptance of the improvements by the City. The City will make no effort to delay project approval or otherwise condition payment of reimbursements from other properties benefiting from the improvements prior to completion of a reimbursement agreement.

16.40.050 Reimbursement Agreement.

A. Within 60 days of receipt of a completed application, the Public Works Director shall prepare a reimbursement agreement containing the following provisions:

- 1) The amount of reimbursable costs shall include construction costs less any applicable credits plus ten percent for administrative and engineering costs. Applicable City engineering and processing fees shall

also be added. Costs of financing, bonds or other applicant costs shall not be included.

2) The total reimbursable cost shall be apportioned to the benefitting properties as appropriate. Costs of transitions, utility stubs or other minor work shall not be apportioned to adjacent property.

3) The reimbursable amount shall be recalculated annually to include an amount attributable to interest, using the Engineering News Record 20 Cities Construction Cost Index as of the end of the year. The reimbursable amount for subsequent years shall be the prior year reimbursable amount less any reimbursements made during the year, all multiplied by the percentage change in the Index over the year.

4) The agreement shall provide that the City will collect the appropriate charge from the properties identified in the agreement and reimburse the applicant or the applicant's heirs, successors or assigns, for a period of 15 years from the date of the agreement. Beyond 15 years, such charges shall be collected and paid into the appropriate Development Impact Mitigation Fee Fund, except that agreements initiated by the City, the charge shall be placed in the City fund from which the improvement was originally funded or the General Fund if the original fund no longer exists.

5) Prior to approval of the reimbursement agreement, the City Council shall conduct a public hearing. The hearing shall be conducted within 90 days of receipt of the completed application. The applicant and property owner of each parcel identified in the reimbursement agreement shall be notified of the hearing by registered mail at least ten calendar days prior to the hearing.

B. The reimbursement agreement shall be numbered and filed by the Public Works Director.

16.40.060 Collection of Reimbursements.

A. For any property on which the City Council has approved a public improvement reimbursement agreement, the appropriate charge shall be collected by the City upon development. Development shall mean any of the following:

- 1) Service connection to the utility covered by the reimbursement agreement;
- 2) Filing of a final subdivision map;
- 3) Filing of a final parcel map unless the City requirement for installation of public improvements is waived or deferred;
- 4) Issuance of a building permit.

B. In the event the activity described in (A) above only occurs on a portion of the area covered by the reimbursement agreement, the reimbursement charge shall be apportioned by the Public Works Director and the appropriate charge made upon the developing portion.

16.40.070 Payment of Reimbursements.

A. Upon collection of reimbursement charges, the Public Works Director shall prepare a letter of entitlement stating the amount of the charge collected, reference the agreement number and administrative charge to be retained by the City. The letter shall be forwarded to the Finance Director for actual reimbursement.

B. The administrative charge for collecting the charge and mailing the reimbursement shall be determined by the City Council by resolution.

C. The Finance Director shall mail the reimbursement amount to the last address on file with the Finance Director of the applicant.

D. Any reimbursement amount returned or unclaimed after two years from the date of mailing shall be deposited in the appropriate Development Impact Mitigation Fee Fund.

Section 2. **13.08.110** of the Lodi Municipal Code is amended to read as follows:

13.08.110 Minimum size.

The minimum size water main shall have a nominal inside diameter of *six* inches except as approved by the Public Works Director in accordance with the City of Lodi Public Improvement Design Standards. In areas zoned or master planned for commercial and industrial uses, the minimum size shall be eight inches in diameter. Larger size mains may be required as determined by the public works director from the city master water plan.

Section 3. **13.08.130** of the Lodi Municipal Code is amended to read as follows:

13.08.130 Oversized mains.

Wherever the city requires that a water main larger than eight-inches in diameter be installed in order to serve additional property or to conform to the water master plan, the applicant shall be reimbursed the difference in cost between the actual water main to be constructed and an eight-inch diameter water main. The reimbursement shall be made in accordance with Chapter 16.40 of this code.

Section 4. 13.08.140 of the Lodi Municipal Code is amended to read as follows:

13.08.140 Major crossings.

A. Wherever the city master water plan requires that a water main cross a right-of-way listed as follows, the city will reimburse the applicant one-half the estimated cost of that crossing:

1. Woodbridge Irrigation District;
2. Southern Pacific Transportation Company;
3. Central California Traction Company;
4. Highway 99;
5. Highway 12;
6. Lower Sacramento Road;
7. Hutchins Street (south of Kettleman Lane).

B. The limits of the crossing shall be determined by the public works director. The reimbursement shall be made in accordance with Chapter 16.40 of this Code.

Section 5. 13.12.300 of the Lodi Municipal Code is amended to read as follows:

13.12.300 Purpose.

The city council is desirous of adopting a sewer service and extension policy that is **fair** and equitable to all developing properties and that provides that the cost of extension shall be distributed among subsequently developing properties connecting

hereto. For purposes of this Article, storm drains shall be considered as sewers except as specifically stated otherwise.

Section 6. **13.12.340** of the Lodi Municipal Code is amended to read as follows:

13.12.340 Minimum diameter.

The minimum size sewer main shall have a nominal inside diameter **of** six inches. The minimum size storm drain shall have a nominal inside diameter **of** twelve inches. Larger size mains may be required as determined by the public works director in accordance with the city public improvement design standards or the city master sewer and storm drain plans.

Section 7. **13.12.370** of the Lodi Municipal Code is amended to read as follows:

13.12.370 Reimbursement - Oversized mains.

Wherever the city requires that a sewer main larger than ten inches in diameter or a storm drain larger than eighteen inches in diameter **be** installed in order to serve additional property or to conform to the applicable master plan, the applicant shall be reimbursed for the oversized pipe. The reimbursement shall be based on the difference in cost between the actual pipe to be installed and a ten-inch sewer or eighteen inch storm drain as applicable. The difference in cost shall be determined by the public works director. The reimbursement shall be made in accordance with chapter **16.40** of this code.

Section 8. Section 16.24.04 of the Lodi Municipal Code is amended to add the following:

C. The subdivider or developer shall be reimbursed for excess width street construction and right-of-way or for construction of permanent improvements which front adjacent property.

Reimbursement shall be made in accordance with chapter 16.40 of this Code. For purposes of this section excess width streets are defined as :

- 1) new streets over 68 feet in width;
- 2) widenings of existing street in excess of 34 feet on one side.

~~Section 9.~~ Section 15.44.050 of the Lodi Municipal Code is amended to add the following:

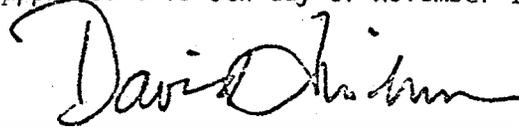
F. Street improvements and dedications made pursuant to this chapter are eligible for reimbursement as provided in Chapter 16.24 of this Code.

Section 10. Sections 13.08.150, 13.08.160, 13.08.170, 13.01.180, 13.08.190, 13.08.200, 13.08.210, 13.12.350, 13.12.360, 13.12.380, 13.12.390, 13.12.400 and 13.12.410 of the Lodi Municipal Code are hereby repealed.

Section 11. Effective Date. This ordinance takes effect 60 days after its adoption.

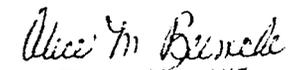
Section 12. Publication. The City Clerk shall either: (a) have this ordinance published once within 15 days after adoption in a newspaper of general circulation, or (b) have a summary of this ordinance published twice in a newspaper of general circulation, once 5 days before its adoption and again within 15 days after its adoption.

Approved this 6th day of November 1991



DAVID M. HINCHMAN
Mayor

Attest:

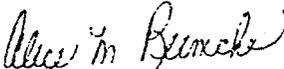

ALICE M. REIMCHE
City Clerk

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State of California
County of San Joaquin, ss.

I, Alice M. Reimche, City Clerk of the City of Lodi, do hereby certify that Ordinance No.1527 was introduced at a regular meeting of **the** City Council of the City of Lodi held October 16, 1991 and was thereafter passed, adopted and ordered to print at a regular meeting of said Council held November 6, 1991 by the following vote:

Ayes:	Council Members - Pennino, Pinkerton, Sieglock, Snider and Hinchman (Mayor)
Noes:	Council Members - None
Absent:	Council Members - None
Abstain:	Council Members - None

I further certify that Ordinance No. 1527 was approved and signed by the Mayor on the date of its passage and the same has been published pursuant to law.


ALICE M. REIMCHE
City Clerk

Approved as to Form


BOBBY W. McNATT
City Attorney

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