CITY OF LODI

COUNCIL COMMUNICATION

AGENDA TITLE: Public Hearing to Consider a Resolution to Establish a Policy for Payment of Fence and Landscape Maintenance in New Developments

MEETING DATE: September 15, 1999

PREPARED BY: Public Works Director

RECOMMENDED ACTION: That the City Council conduct a public hearing to consider a resolution to establish a policy for payment of the maintenance of fence and landscape improvements in new developments with reverse frontage lots and adopt the attached resolution approving the policy with only Options 1 and 2 and the additional wording described.

BACKGROUND INFORMATION: Previous City policy required new developments having reverse frontage lots to provide a reverse frontage wall/fence at the back of the walk and a 10-foot landscape easement for tree planting on the parcels behind the wall. The developer was responsible for the cost of the trees in the landscape easement and, if the wall was to be publicly maintained, was also required to pay a one-time, lump-sum payment of $2.75 per linear foot for the maintenance of the wall. Maintenance of the trees in the landscape easement was the responsibility of the homeowner.

Current City requirements regarding reverse frontage fences and landscaping have evolved to include masonry walls with irrigated landscape areas. This has necessitated development of a more comprehensive policy for the maintenance and replacement of these improvements.

The final report and draft policy, including a payment recommendation for funding maintenance and replacement of fences, walls, landscaping and irrigation improvements, prepared by Harris & Associates, is attached. The draft policy includes four alternatives: 1) a one-time, lump-sum payment or formation of 2) homeowner's associations, or 3) landscape and lighting districts, or 4) Mello-Roos community facilities districts.

An informational meeting for local developers and engineers affected by the report was held August 30, 1999, at the Lodi Library. There were seven attendees from local development and engineering firms. Representatives from Harris & Associates presented a brief overview of the draft policy alternatives and the meeting was opened to comments and questions from the attendees. There was a brief discussion of the proposed one-time developer payment which included clarification of the methodology and assumptions used to develop the amount. All the developers present voiced reluctance to form homeowner's associations due to litigation concerns. The discussion centered mainly on the feasibility of forming landscape and lighting districts (LLD) or Mello-Ross community facility districts (CFD) to handle on-going maintenance and replacement of fence and landscape improvements.

Staff has serious concerns regarding the LLD and CFD alternatives. The LLD and CFD are subject to referendum under the provisions of Proposition 218. In addition, any future increases in the LLD assessments not included in the original formation are subject to ballot approval by the affected

APPROVED: H. Dixon Flynn -- City Manager

homeowners and could be voted down. If the districts were to be defeated at the ballot box, there would be no revenue stream to cover maintenance costs. The City Council would then be faced with the disagreeable alternatives of allowing the expense to fall on the General Fund or to simply not maintain the improvements.

It is also quite possible that the cost of administering the districts could equal or exceed the cost of maintenance of the fence and landscape improvements. For example, assuming a project with 1,500 feet of reverse frontage wall and landscaping and a maintenance cost of $1.55 per foot and a 30% reserve, the portion of the annual assessment covering these costs would be approximately $3,000. Based on the Harris & Associates report, the annual service cost for the district to be included in the assessment would be roughly $5,000. Therefore, the total assessment would need to be approximately $8,000 to cover $3,000 in actual maintenance costs. Obviously, we could reduce this discrepancy by combining districts. However, the administrative costs for one district with two zones would be higher than one single district. If we have four such zones with a maintenance cost of $12,000 and an administrative cost of $6,000, the cost ratio is still quite high.

In order not to preclude a developer of a very large project with special features from setting up a district, staff suggests the following paragraph be added to the policy:

> Projects that include facilities in excess of typical reverse frontage improvements and suitable for maintenance through a special district will be considered on a case-by-case basis. In those cases, the reverse frontage improvements may be included in the district in lieu of Options 1 and 2.

Staff recommends that Alternatives 3 and 4 of the draft policy be eliminated.

FUNDING: Not applicable.

Richard C. Prima, Jr.
Public Works Director

Prepared by Sharon A. Welch, Senior Civil Engineer
RCP/SAW/lm
Attachments

cc: City Attorney
Senior Civil Engineer – Development Services
Harris & Associates
Mailing List

Harris & Associates

Program Managers
Construction Managers
Civil Engineers

September 1,1999

Richard C. Prima, Jr.
Public Works Director
City of Lodi, Public Works Department
221 West Pine Street
P.O. Box 3006
Lodi, California 95241-1910

Subject: Final Letter Report and Final Draft Policy on Alternatives for Funding Maintenance and Replacement of Fences, Walls, Landscaping and Irrigation Improvements in Subdivisions with Reverse Frontage Lots

Dear Mr. Prima:

In accordance with the Public Services Agreement, Task Order No. 3, between the City of Lodi and Harris & Associates, please consider this a "final" letter report which summarizes the various approaches available to the City to maintain and replace fences, walls, landscaping and irrigation systems on reverse frontage lots along arterial streets adjacent to new residential subdivisions. This report provides information and analysis on four (4) possible alternatives that could be used to fund the maintenance obligation: 1) One-time, lump sum payment, 2) Formation of Homeowners Associations (HOA), 3) Formation of assessment districts under the 1972 Landscaping and Lighting Act of 1972 or 4) Formation of Community Facilities Districts under the 1982 Mello-Roos Act. The implications of the Mitigation Fee Act (AB1600), Proposition 218 and SB 919 for these alternatives will also be addressed.

Based upon the analysis provided herein, attached please find a "final draft" Policy on Funding Maintenance of Walls Fences, Landscaping and Irrigation Improvements in Subdivisions with Reverse Frontage Lots.

ALTERNATIVE NO. 1: ONE-TIME, LUMP SUM PAYMENT

One-Time, Lump Sum Payment Concept

This alternative would provide that the land developer make a one-time, lump sum payment as a condition of approval of the Tentative or Final Subdivision Map and prior to the recordation of the Final Map, as the means for the City to guarantee maintenance and replacement of fences, walls, landscaping and irrigation improvements in perpetuity. This could be viewed strictly as a condition imposed on the Map or treated as a "voluntary contribution in lieu of formation of a Homeowners Association, Landscape, Lighting District or a Community Facilities District." If this alternative is selected, it is suggested that this form of language be used as part of the condition of approval.

35 East 10th Street, Suite A Tracy, California 95376 209.833.3310 FAX 209.833.1624 tracy@harris-assoc.com

The lump sum payment would be made to the City, deposited in a special fund/account and invested in instruments in accordance with the City's investment policy. Interest earned on investment would assist in covering increased maintenance cost in the future.

Lump Sum Formula and Costs

Harris, in conjunction with City staff, determined that a present worth analysis would be the most equitable methodology to determine the one-time lump sum contribution. Based on the present worth analysis, Harris recommends that the lump sum, or principal payment, by owners/developers be **$49 per lineal foot**, which will provide sufficient funding for maintenance and replacement for 30 years. See Appendix A for the analysis and background information, including the typical cross-section.

The present worth analysis was based on assumptions as follows and as noted in Appendix A. Based upon actual landscape maintenance contracts already in place, and assuming an 8.5-foot wide landscape strip, the landscape maintenance cost in the City of Lodi for FY 1999-2000 is $1.55 per linear foot. See Appendix A, Table 2, for the cost data, and Appendix A, Figure 1 for the typical landscaping cross-section. Using this figure, an inflation rate of 3% and an interest (or discount) rate of 5% were applied to the annual maintenance and replacement costs. The present worth of wall maintenance costs remains $2.75 per linear foot, as approved by City Council on September 1, 1993. A reserve amount of thirty (30%) percent has been included to cover extraordinary and unpredictable maintenance and/or replacement event costs.

Statutory Implications

The one-time, lump sum payment concept has no statutory implications. It is not a fee related to capital improvements, so it is exempt from AB 1600. It is not an assessment, so it is exempt from Proposition 218 and SB919, and it is not a tax similar to what would be involved with a Community Facilities District.

ALTERNATIVE NO. 2: HOMEOWNERS ASSOCIATIONS

Homeowner Association Concept

The City could require, as a condition of approval of a Final Map, the formation of Homeowner Associations, which would assess and collect either monthly or annual fees from homeowners to pay for maintenance and replacement of fences, walls, landscaping and irrigation improvements. The City would not be involved in the establishment, modification or collection of HOA maintenance/replacement fees.

This approach would require that landscaped areas be in private easements, not in public right of way. While the easement would be privately owned, the City should condition the Final Map to review and approve the Conditions, Covenants and Restrictions to ensure that the easements are legally proper and also to optionally provide that the City has the right to enter the private easement areas to perform landscaping services, with a charge back to the HOA, in the event the landscaping improvements substantially deteriorate below City Standards. The City would need to be named a third-party beneficiary in the Conditions, Covenants and Restrictions.

Both the City and the developer(s) should determine if they wish to delegate the maintenance of major landscaping improvements along arterial streets to private Homeowner Associations, over which they have little or no control.

Statutory Implications

HOA landscape maintenance and replacement fees would be privately established, assessed and collected. City involvement would not be required, so there would be no statutory implications.

ALTERNATIVE NO. 3: 1972 LANDSCAPING AND LIGHTING DISTRICT

Assessment District Concept

As with the other alternatives, the City must be assured that an appropriate funding mechanism is in place to cover the costs of maintenance and replacement of fences, walls, landscaping, and irrigation improvements. The City may wish to consider the formation of 1972 Landscaping and Lighting District in order to cover these costs. This could be done in one of two different ways, as follows:

1. Formation of a new district prior to the City approving the Tentative Map or the Final Map.

   The City Council must adopt a Resolution of Intention to create a new landscaping and lighting maintenance district, and hold a public hearing at least 45 days after adopting the Resolution of Intention. All landowners within the district boundaries will be given a ballot to vote on forming a new district. For a new subdivision on raw land, the owner/developer would typically be the only person voting. In order to minimize the delay in approving the Final Map, the owner/developer should obtain approval of the project's Engineer's Report for the creation of the district at the earliest opportunity (ideally no later than the end of the second plan check), so that the public hearing process can be expedited. The Final Map cannot be approved by the City Council until the City has received a positive vote for formation of the district and the public hearing for district formation has been held by the City Council.

2. Deposit funds for the maintenance and replacement of fences, walls, landscaping and irrigation improvements pending formation of a new district.

   The owner/developer would make a cash deposit with the City in the amount as shown on Appendix A, Table 1, which would be refunded upon the successful conclusion of district formation. This option would avoid any delay in the approval of the Final Map. This form of "bonding" would have to be included as a special condition in the subdivision improvement agreement. This "bond" would be placed in a non-interest bearing account. The Resolution of Intention for the public hearing would be approved concurrently with the Final Map.

The attached flow chart shows the 1972 Act Landscaping and Lighting District formation procedure. (See Appendix B)

District formation costs, which may vary from $5,000 to $8,000, and annual service costs of roughly $5,000, can be included/spread in the assessment amounts. To avoid future balloting to accommodate maintenance cost increases, it is advisable to include a cost escalator at the time of district formation. The regional Consumer Price Index can be used for this purpose. Additionally, it is advisable to include a reserve amount to handle extraordinary and unpredictable maintenance and replacement events or cost increases. The 1972 Act permits a maximum 50% reserve amount for cash flow purposes. Homebuyers are advised of the assessment as part of disclosures required on title reports during escrow.

District formation is dependent solely upon the majority of ballots (one ballot per assessed parcel/lot) returned not being against formation. Therefore, the formation process is considerably easier when dealing only with the property owner(s)/developer(s). Such districts are more difficult to form when a portion or all of the subdivision has been developed and homeowners may outnumber the property owner(s)/developers.

Dissolution of a Landscaping and Lighting District is provided for in the 1972 Act. The district is also subject to referendum under provisions of Proposition 218. Further, any subsequent, proposed increases in the assessment amounts or changes in assessment methodology not included in the original formation are subject to a new balloting procedure and could be voted down by the then homeowners.

Statutory Implications

The 1972 Act is an assessment district law that falls within the purview of Proposition 218 and SB 919. There is one additional implication worth noting. The 1972 Act requires a spread of assessments within the district formed. However, Proposition 218 requires that other properties outside the district may also receive benefit from the landscaping improvements (such as properties on the opposite side of arterial streets) and must be assessed. Since the landscaping improvements would be located along arterial streets, and the general public uses these streets, there is a "general benefit" which also must be assessed against the general public. The City would be required to pay this assessment.

ALTERATIVE NO. 4: MELLO-ROOS COMMUNITY FACILITIES DISTRICT

Community Facilities District Concept

Formation of Community Facilities Districts (CFD) is another option for the City. A CFD Maintenance District is not an assessment district, rather it is a "special tax" district. A tax formula would need to be established to determine the amount of CFD "tax levy" on the parcels within the subdivision affected. In this case, the district proceeds pay for on-going maintenance and replacement of fences, walls, landscaping and irrigation improvements, so there is no bonded debt for capital improvements. The tax is more akin to an annual service fee. The formation process is similar to the process required for the Landscaping and Lighting District, except that with a single owner/developer, notice provisions can be waived and the balloting completed in fifteen (15) days as opposed to forty-five (45) days. Formation and annual service costs, which should be somewhat less than the Landscape and Lighting District, can also be included in the annual special tax. The same two alternative ways of handling district formation and approval of the Final Map as indicated for the 1972 Act can be employed with a CFD. Disclosure requirements for CFD tax levies consist of a special form that the prospective homebuyer must sign prior to close of escrow.

A CFD essentially implies that the maximum tax needed to support the landscape maintenance and replacement effort should be adopted because the district is perpetual, and no changes or amendments can be made once it is formed. An annual cost escalator can be included in a CFD Maintenance District; however, it is typically no more than 2% because of State constitutional implications. There is no statutory limit on the reserve amount which can be included in the special tax.

CFD formation can be very straightforward when dealing only with the property owner(s)/ developer(s) because the required Special Election can be accomplished with a property owners vote if there are less than twelve (12) registered voters within the proposed boundaries.

If the proposed CFD boundaries include twelve (12) or more registered voters, which might likely be the case in completed or partially completed subdivisions, a Special Election must be held between 90 and 180 days following City Council adoption of the Resolution of Formation.

There are no specific dissolution procedures for CFD's, therefore, they are considered to be permanent. However, they are subject to referendum in accordance with provisions of Proposition 218. Such districts are exempt from referendum only if they are formed to bond debt for capital projects. In this case, the CFD would be a maintenance district and would not be exempt from referendum.

The attached flow chart shows the Mello-Roos Community Facilities District formation procedure. (See Appendix C).

Statutory Implications

Again, a CFD is a special tax district, so AB1600, Proposition 218 and SB919 do not apply, except as noted above with regard to referenda. Because it is a tax, any cost escalator should be no more than 2% per year to avoid potential conflict with Article XIII of the California Constitution (Proposition 13).

Please review this information and call me to let me know when you would like to meet and discuss it further.

Sincerely,

Ronald D. Creagh
Program Manager

Attachments: Appendix A: Present Worth Analysis for One-Time, Lump Sum Payment for FY 1999-2000

Appendix B: 1972 Act Landscaping and Lighting District Formation Procedure

Appendix C: Mello-Roos Community Facilities District Formation Procedure

"Final Draft" Policy on Funding of Maintenance of Walls, Fences and Landscaping Improvements in Subdivisions with Reverse Frontage Lots.

APPENDIX A:

Present Worth Analysis for One-Time, Lump Sum Payment for FY 1999-2000

Appendix A
Table 1

Present Worth Analysis
for a
One-time Lump Sum Payment
for
Landscape Wall Maintenance on Reverse Frontage Lots

Effective through June 30, 2000

R_m = $ 1.55 = Annual Landscape Maintenance Costs

j = 3% = Inflation per period
(inflation rate, r = 1+ j = 1.03)

i = 5% = Interest rate per period

R_{wm} = $ 2.75 = Present Worth Lump Sum Wall Maintenance Cost per LF (1998)
(adopted by City Council September 1, 1993)

Lump Sum Present Worth (per LF)

n years	Lump Sum Landscape Maintenance Costs	Lump Sum Wall Maintenance Costs	30% Replacement Costs	**Total Lump Sum Cost for n years***
20	$25.49	$2.75	$8.47	**$37**
25	$30.48	$2.75	$9.97	**$43**
30	$35.00	$2.75	$11.33	**$49** ←
40	$42.85	$2.75	$13.68	**$59**
50	$49.32	$2.75	$15.62	**$68**
75	$60.97	$2.75	$19.12	**$83**
100	$68.17	$2.75	$21.28	**$92**

* *Total Lump Sum Cost rounded to whole dollars*

General Notes:

1. Maintenance costs shown above are costs per linear foot and are based on a standard width of approximately 8.5 feet.
2. Maintenance costs shown above do not include costs for maintenance and replacement of lighting of landscaped areas or lettering and facia of subdivision entryway monument markers and signs.
3. The 30% Reserve Fund is for Extraordinary Maintenance and Replacement Costs
4. The Present Worth (PW) of the Landscape Maintenance Costs is based on the following equations from the *Standard Handbook of Engineering Calculations,* by Tyler G. Hicks, P.E. (c. 1985, page 12.5):

$$PW = (URSPW) \times (R_1)$$

URSPW = Uniform-Rate-Series Present-Worth Factor

$$= \frac{[r/(1+i)]^n - 1}{r-i-1}$$

R_1 = The first year's annual maintenance cost

$$= (R_m) \times (r)$$

Harris & Associates

Appendix A
Table 2

LANDSCAPE MAINTENANCE COSTS FOR 1999/2000

Location	Approximate Area (SF)	Odyssey Landscape Company Contract Price	Cost Per SF	Component Cost Per SF Weighted by Area [1]
Medians				
Arundel Court	2,800	$392.56	$0.14	$0.003
Bradford Circle	3,225	471.00	0.15	0.003
Dorchester Way	3,450	392.56	0.11	0.003
Ham Lane, Kettleman-Harney	27,360	5,024.01	0.18	0.033
Lower Sacramento Road (all)	80,652	8,297.99	0.10	0.055
Port Chelsea Circle	3,270	471.00	0.14	0.003
Shady Acres	800	471.00	0.59	0.003
Virginia Avenue (3)	1,400	596.58	0.43	0.004
Vista Drive	375	471.00	1.26	0.003
Hutchins, Vineyard-Harney	5,020	1,727.00	0.34	0.012
Central Avenue	2,970	2,198.00	0.74	0.015
Elm Street, Rose-California (3)	2,430	722.15	0.30	0.005
Walkways				
Bradford Circle	2,020	$408.15	$0.20	0.003
Brandywine	4,400	753.67	0.17	0.005
Denby Drive	1,775	1,114.71	0.63	0.007
Grenoble Drive	1,840	1,114.71	0.61	0.007
Port Chelsea Circle (2)	2,760	1,193.15	0.43	0.008
Wimbledon Drive	850	345.42	0.41	0.002
Turner Road @ Evergreen Dr.	2,600	1,193.64	0.46	0.008
Total	149,997	$26,164.69		**$0.182**

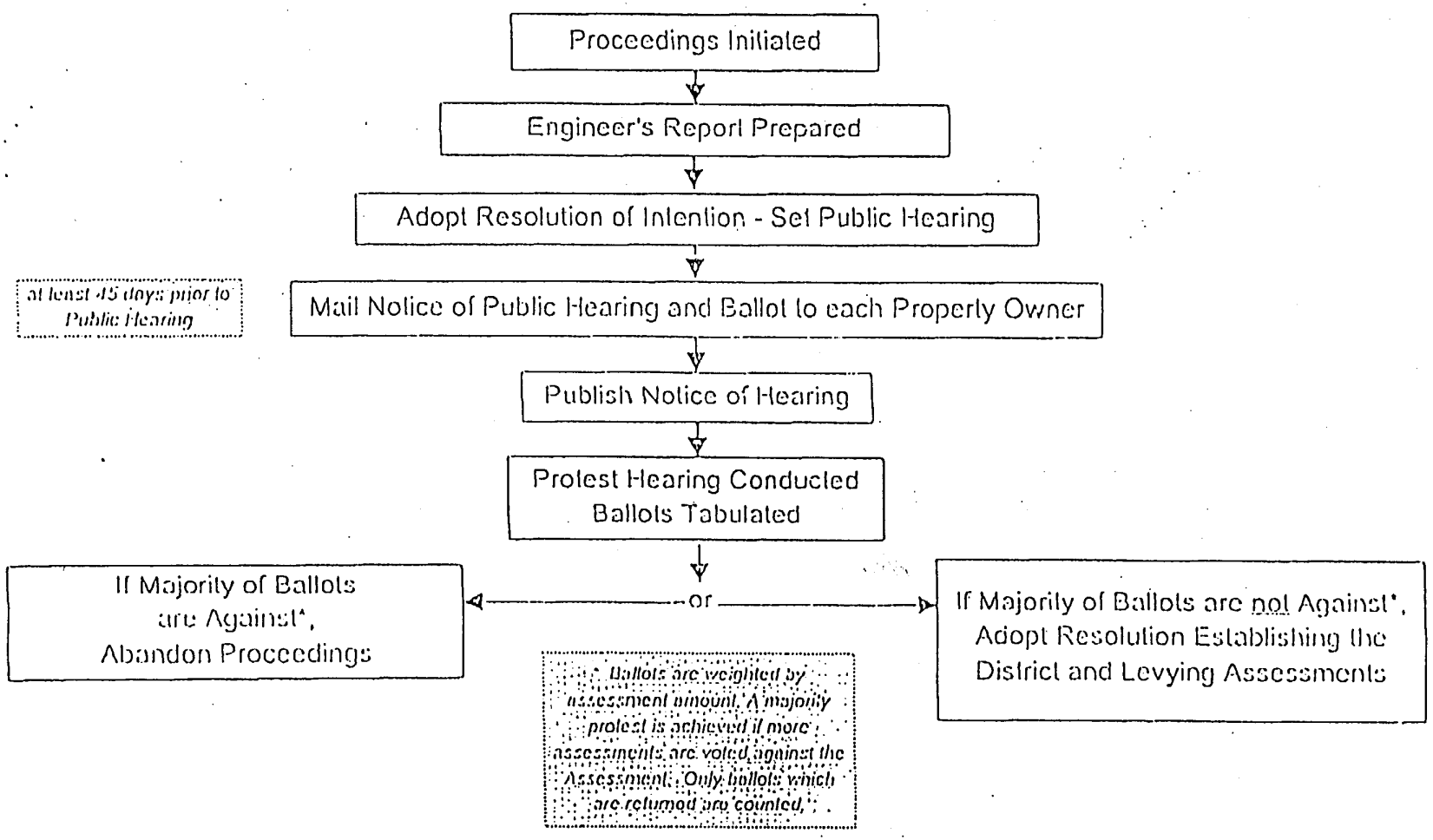
Cost per LF Based on 8.5' Landscape Width: $1.55

[1] Since the cost per square foot for the individual landscaped areas varies widely ($0.10 to $1.26 per square foot), a component cost for each area weighted by the total area was calculated. The resultant component costs were then summed to provide a more representative cost per square foot ($0.182).

APPENDIX B:

1972 Act Landscaping and Lighting District Formation Procedure

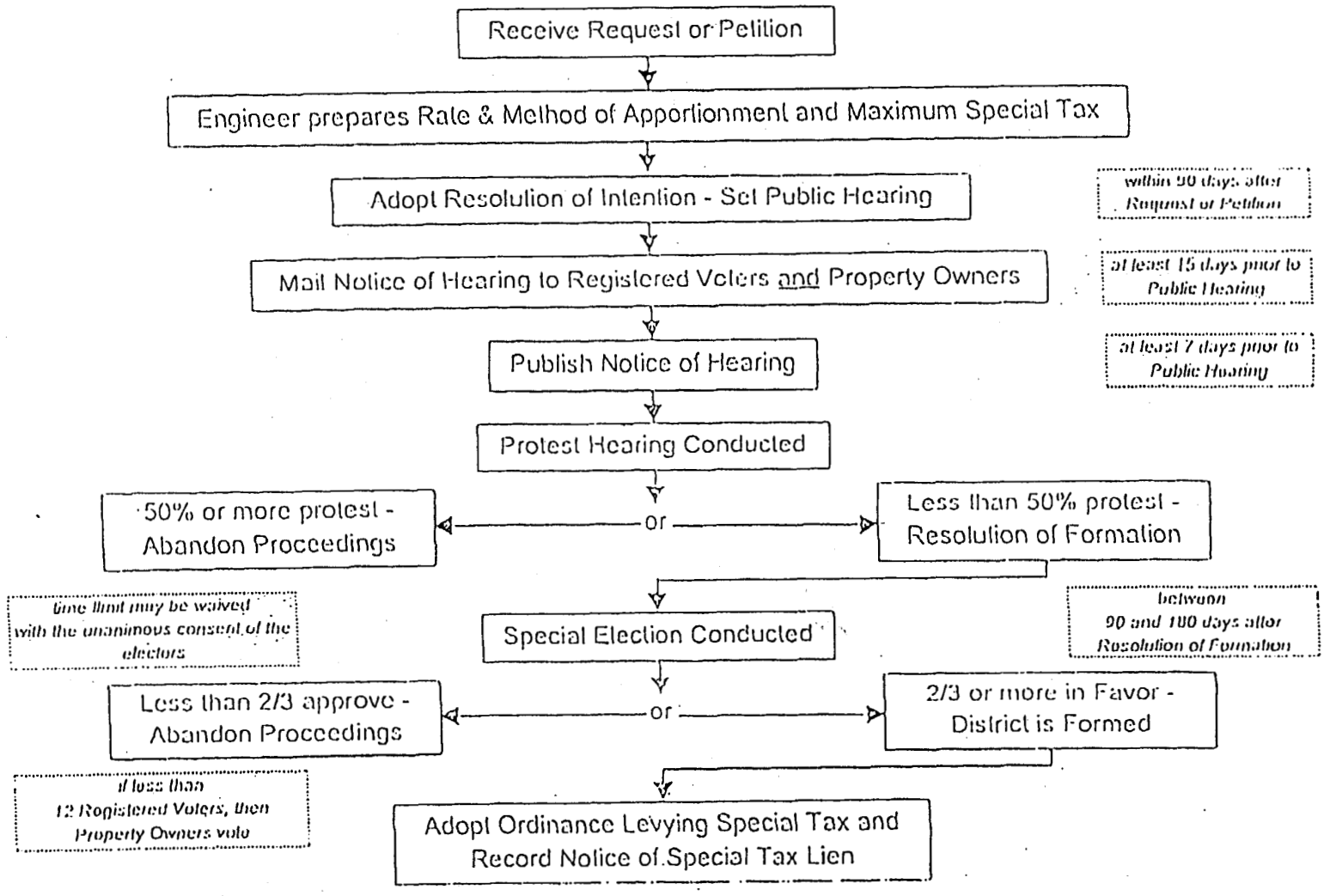
1972 Act Landscaping and Lighting District Formation Procedure



APPENDIX C:

Mello-Roos Community Facilities District Formation Procedure

Mello-Roos Community Facilities District
Formation Procedure



"Final Draft"
Policy on Funding of Maintenance Of Walls, Fences, Landscaping and Irrigation Improvements in Subdivisions With Reverse Frontage Lots.

EXHIBIT "A"

CITY OF LODI

POLICY ON FUNDING OF MAINTENANCE AND REPLACEMENT OF WALLS, FENCES, LANDSCAPING AND IRRIGATION IMPROVEMENTS IN SUBDIVISIONS WITH REVERSE FRONTAGE LOTS

The following policy shall provide options for the funding of on-going maintenance and replacement of walls, fences, landscaping and irrigation improvements located in the street right of way along major arterial roads and abutting reverse frontage lots in proposed subdivisions.

Before the City of Lodi approves a Final Subdivision Map, it must be assured that an appropriate funding mechanism is in place to cover the on-going costs of wall, fence, irrigation and other landscaping maintenance and operation. Owners/developers must choose one of the following options to provide that funding:

1. One-time, lump sum payment: The owner/developer will be required, as a condition of Tentative Map or Final Map approval, to make a lump sum prepayment in an amount as shown on Attachment "A" for Fiscal Year 1999-2000, and updated and recalculated at the beginning of every fiscal year thereafter to ensure perpetual funding for future maintenance and replacement costs. A 30% Reserve Amount is included, which is updated annually, to cover extraordinary and unpredictable maintenance, replacement events or cost increases. Annual updates of the prepayment amount and Reserve Amount will be accomplished administratively and will be based on changes in costs for maintenance of fences, walls, landscaping and irrigation improvements. While the prepayment is a condition of the Final Map, it will be treated as a voluntary contribution in lieu of formation of a Homeowners Association, a Landscape and Lighting District or a Community Facilities District. The lump sum payment will be deposited in a special fund/account and invested in instruments in accordance with the City's investment policy. Interest earned on the investment will be used to assist in covering future maintenance and replacement costs.

2. Homeowners Association: The owner/developer will be required, as a condition of approval of the Tentative Map or Final Map, to form a Homeowners Association which will assess and collect fees from homeowners to pay for future maintenance costs. All fences, walls, landscaping and irrigation improvements abutting reverse frontage lots and streets will be required to be placed in private easements, not public right of way. The City will review and approve the Conditions, Covenants and Restrictions to ensure that the deeds reflect common ownership of the private easement(s) and that the City has the right to enter the private easement(s) to perform landscape services, with charges to the Homeowners Association in the event the landscaping improvements substantially deteriorate below City Standards. The City of Lodi is to be named as a third party beneficiary in the Conditions, Covenants and Restrictions.

3. 1972 Act Landscape and Lighting District: The Tentative Map or Final Map will be conditioned with a requirement for the formation of a Landscape and Lighting District. Formation of such a district may be accomplished in one of two ways:

    a) Formation of a new district prior to the City approving a Tentative Map or Final Map.

The City Council must adopt a Resolution of Intention to create a new landscape and lighting district and hold a public hearing at least 45 days after adopting the Resolution of Intention. All landowners in the district will be given a ballot to vote on forming a district. In order to minimize the delay in approving the Final Map, the owner/developer should obtain approval of the project's Engineer's Report for the creation of the district at the earliest opportunity. The Final Map cannot be approved until the City has received a positive vote for formation of the district and the public hearing for district formation has been held by the City Council.

b) Submit funds for the perpetual maintenance of landscaping improvements pending formation of a new district.

The owner/developer must make a cash deposit with the City in the amount shown as the One-time, lump sum payment on Attachment A, which will be refunded upon the successful conclusion of district formation. This form of "bonding" will be included as a special condition in the subdivision improvement agreement. The "bond" will be placed in a non-interest bearing account. The Resolution of Intention for the public hearing will be approved concurrently with the Final Map.

4. Mello Roos Community Facilities District: The Tentative Map or Final Map will be conditioned to require the formation of a Community Facilities District. Formation of a Community Facilities Maintenance District will establish a tax formula for the annual Community Facilities "special tax" levy on the parcels/lots within the subdivisions which will be needed to cover future maintenance and replacement costs for landscaping improvements. The formation process is similar to the process required for the Landscaping and Lighting District, so the same two (2) alternative ways of handling district formation and approval of the Final Map applicable to that assessment district will apply to the Community Facilities District.

Attachment: Attachment A

Attachment A

One-time Lump Sum Payment
for
FY 1999/2000
Effective through June 30, 2000

Item		*Cost per LF*
Annual Landscape Maintenance Cost	$	1.55
Lump sum Wall Maintenance Cost	$	2.75
Lump sum payment per lineal foot	**$**	**49.00**
Based on Present Worth for Maintenance over 30 years		

Notes:
1. Maintenance costs shown above are costs per linear foot and are based on a standard width of approximately 8.5 feet.
2. Maintenance costs shown above do not include costs for maintenance and replacement of lighting of landscaped areas or lettering and facia of subdivision entryway monument markers and signs.
3. A 30% Reserve Fund is included for Extraordinary Maintenance and Replacement Costs

RESOLUTION NO. 99-147

A RESOLUTION OF THE LODI CITY COUNCIL
ESTABLISHING A POLICY AND FEE FOR FENCE AND
LANDSCAPE MAINTENANCE IN NEW DEVELOPMENTS

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BE IT RESOLVED, that the City Council of the City of Lodi does hereby establish a Policy on Funding of Maintenance and Replacement of Walls, Fences, Landscaping and Irrigation Improvements in Subdivisions with Reverse Frontage Lots as shown on Exhibit A attached hereto and made a part of this Resolution; and

BE IT FURTHER RESOLVED, that the City Council of the City of Lodi does hereby establish Fees for Funding of Maintenance and Replacement of Walls, Fences, Landscaping and Irrigation Improvements in Subdivisions with Reverse Frontage Lots as shown on Attachment A attached hereto and made a part of this Resolution effective Fiscal Year 1999/2000.

Dated: September 15, 1999

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I hereby certify that Resolution No. 99-147 was passed and adopted by the City Council of the City of Lodi in a regular meeting held September 15, 1999, by the following vote:

AYES: COUNCIL MEMBERS – Mann, Nakanishi, Pennino and Land (Mayor)

NOES: COUNCIL MEMBERS – None

ABSENT: COUNCIL MEMBERS – Hitchcock

ABSTAIN: COUNCIL MEMBERS – None

Alice M. Reimche

ALICE M. REIMCHE
City Clerk

EXHIBIT "A"

CITY OF LODI

POLICY ON FUNDING OF MAINTENANCE AND REPLACEMENT OF WALLS, FENCES, LANDSCAPING AND IRRIGATION IMPROVEMENTS IN SUBDIVISIONS WITH REVERSE FRONTAGE LOTS

The following policy shall provide options for the funding of on-going maintenance and replacement of walls, fences, landscaping and irrigation improvements located in the street right-of-way along major arterial roads and abutting reverse frontage lots in proposed subdivisions.

Before the City of Lodi approves a Final Subdivision Map, it must be assured that an appropriate funding mechanism is in place to cover the on-going costs of wall, fence, irrigation and other landscaping maintenance and operation. Owners/developers must choose one of the following options to provide the funding:

1. **One-time, Lump Sum Payment:** The owner/developer will be required, as a condition of Tentative Map or Final Map approval, to make a lump sum prepayment in an amount as shown on Attachment "A" for Fiscal Year 1999-2000, and updated and recalculated at the beginning o every fiscal year thereafter to ensure perpetual funding for future maintenance and replacement costs. A 30% Reserve Amount is included, which is updated annually, to cover extraordinary and unpredictable maintenance, replacement events or cost increases. Annual updates of the prepayment amount and Reserve Amount will be accomplished administratively by the Director of Public Works, and will be based on changes in costs for maintenance of fences, walls, landscaping and irrigation improvements. While the prepayment is a condition of the Final Map, it will be treated as a voluntary contribution in lieu of formation of a Homeowners Association, a Landscape and Lighting District or a Community Facilities District. The lump sum payment will be deposited in a special fund/account and invested in instruments in accordance with the City's investment policy. Interest earned on the investment will be used to assist in covering future maintenance and replacement costs.

2. **Homeowners Association**: The owner/developer will be required, as a condition of approval of the Tentative Map or Final Map, to form a Homeowners Association which will assess and collect fees from homeowners to pay for future maintenance costs. All fences, walls, landscaping and irrigation improvements abutting reverse frontage lots and streets will be required to be placed in private easements, not public right-of-way. The City will review and approve the Conditions, Covenants and Restrictions to ensure that the deeds reflect common ownership of the private easement(s) and that the City has the right to enter the private easement(s) to perform landscape services, with charges to the Homeowners Association in the event the landscaping improvements substantially deteriorate below City Standards. The City of Lodi is to be named as a third party beneficiary in the Conditions, Covenants and Restrictions.

3. **1972 Act Landscape and Lighting District**: The Tentative Map or Final Map will be conditioned with a requirement for the formation of a Landscape and Lighting District. Formation of such a district may be accomplished in one of two ways:

a) Formation of a new district prior to the City approving a Tentative Map or Final Map. The City Council must adopt a Resolution of Intention to create a new landscape and lighting district and hold a public hearing at least 45 days after adopting the Resolution of Intention. All landowners in the district will be given a ballot to vote on forming a district. In order to minimize the delay in approving the Final Map, the owner/developer should obtain approval of the project's Engineer's Report for the creation of the district at the earliest opportunity. The Final Map cannot be approved until the City has received a positive vote for formation of the district and the public hearing for district formation has been held by the City Council.

b) Submit funds for the perpetual maintenance of landscaping improvements pending formation of a new district.

The owner/developer must make a cash deposit with the City in the amount shown as the One-time, lump sum payment on Attachment A, which will be refunded upon the successful conclusion of district formation. This form of "bonding" will be included as a special condition in the subdivision improvement agreement. The "bond" will be placed in a non-interest bearing account. The Resolution of Intention for the public hearing will be approved concurrently with the Final Map.

Attachment A

One-Time Lump Sum Payment

For

FY 1999/2000

Effective through June 30, 2000

Item	Cost per LF
Annual Landscape Maintenance Cost	$ 1.55
Lump Sum Wall Maintenance Cost	$ 2.75
Lump Sum Payment Per Lineal Foot *Based on Present Worth for Maintenance over 30 years*	$ 49.00

Notes:

1. Maintenance costs shown above are costs per linear foot and are based on a standard width of approximately 8.5 feet.

2. Maintenance costs shown above do not include costs for maintenance and replacement of lighting of landscaped areas or lettering and facia of subdivision entryway monument markers and signs.

3. A 30% Reserve Fund is included for Extraordinary Maintenance and Replacement Costs.

CITY OF LODI

Carnegie Forum
305 West Pine Street, Lodi

NOTICE OF PUBLIC HEARING
Date: Wednesday, September 15, 1999
Time: 7:00 p.m.

For information regarding this notice please contact:
Alice M. Reimche
City Clerk
Telephone: (209) 333-6702

NOTICE OFPUBLIC HEARING

NOTICE IS HEREBY GIVEN that on **Wednesday, September 15, 1999** at the hour of 7:00 p.m., or as soon thereafter as the matter may be heard, the City Council will conduct a Public Hearing at the Carnegie Forum, 305 West Pine Street, Lodi, to consider the following matter:

a) Consider a Resolution to Establish a Policy and Fee for Fence and Landscape Maintenance in New Developments.

All interested persons are invited to present their views and comments on this matter. Written statements may be filed with the City Clerk at any time prior to the hearing scheduled herein, and oral statements may be made at said hearing.

If you challenge the subject matter in court, you may be limited to raising only those issues you or someone else raised at the Public Hearing described in this notice or in written correspondence delivered to the City Clerk, P.O. Box 3006, at or prior to the Public Hearing.

Alice M. Reimche
Alice M. Reimche
City Clerk

Dated: September 1, 1999

Approved as to form:

Randall A. Hays
Randall A. Hays
City Attorney