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May 11, 1994

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Law and Legislation Committee
Sacramento, California

Honorable Members in Session:

SUBJECT: POSSIBLE REVISION OF CITY COUNCIL PROCEDURES FOR MAKING CERTAIN UNPAID COSTS SPECIAL ASSESSMENTS UPON THE PROPERTIES TO WHICH THE COSTS ARE RELATED, TO BE ADDED TO THE REAL PROPERTY TAX BILL

LOCATION/COUNCIL DISTRICT: City-wide.

STAFF RECOMMENDATION

It is recommended that the Law and Legislation Committee review this report and provide direction to staff.

CONTACT PERSON: Margaret Freeman, Revenue Manager, 264-5724
Diane B. Balter, Deputy City Attorney, 264-5346

FOR COMMITTEE MEETING OF: May 17, 1994

SUMMARY

This report describes the current procedure for making certain unpaid costs special assessments upon the properties to which the costs are related, to be added to the real property tax bill, which includes a public hearing before the City Council. In response to Council concerns that protests by some property owners lead to protracted discussions at the Council hearings, information is provided relating to current procedures to handle special assessment protests and the possibility of adding the opportunity for an administrative hearing at which to protest the special assessment.

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BACKGROUND INFORMATION

Routinely, the City Council holds public hearings to confirm various unpaid costs which are related to real property as special assessments against that property. The special assessments are added to the annual property tax bill and paid along with the taxes. The costs include costs of securing or demolishing substandard and dangerous buildings, weed abatement costs, sidewalk repair costs, delinquent utility billings, vacant building fees, and other property-related charges.

Although the property owner has had an opportunity for a hearing on the substantive issue underlying the unpaid cost (e.g., to contest the City's allegation that the building is substandard), there is no current procedure for the property owner to request an administrative hearing on the amount or propriety of the special assessment. Therefore, a property owner's contention that the charges are excessive, or that the City did not give the owner a chance to do the work first, are presented directly to the Council at the hearing. The current practice is for City staff to exclude from the first confirmation of special assessments those costs imposed upon persons who come to the public hearing to protest the special assessment. Staff then meets with these persons to make any adjustments which staff determines are appropriate. (For example, the special assessment will be dropped if the person demonstrates the City's failure to notify on the substantive proceeding underlying the cost.) Staff then returns to the Council at a subsequent public hearing to report on the protested special assessments and to recommend Council action on each of them. At this point, the protesting property owners have a right to address the Council. This sometimes leads to extended discussions at Council meetings.

The City Council has asked if these procedures can be modified so that any dispute over the special assessments can be resolved by a hearing officer before the matter comes to the Council.

State law requires the City Council to confirm the special assessments after a noticed public hearing, so there is no way to prevent the property owner from presenting objections concerning the proposed special assessment to the Council. It is possible to give the protesting property owner an opportunity for a hearing before an independent hearing office instead of the current opportunity to meet with City staff. This would involve additional City cost for the hearing officers, would add to the length of the special assessment process, and would not preclude the property owner from presenting whatever arguments he or she wishes when the matter eventually comes to the City Council for confirmation of the special assessment. Were such hearings held, the results thereof would be presented to the City Council along with the property owner's objections, which might shorten the discussion somewhat. Where the property owner does not request a hearing, the Council likely would be within its rights to not hear the objections at all.

The City Attorney currently believes that it would be necessary to amend all city codes relating to special assessments to add the opportunity for an additional administrative hearing.

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FINANCIAL CONSIDERATIONS

If the additional administrative hearing contemplated by this report is to be held before an independent hearing examiner, the City will have to pay for the hearing officer's services. The process will also involve additional staff time devoted to the hearing process.

POLICY CONSIDERATIONS

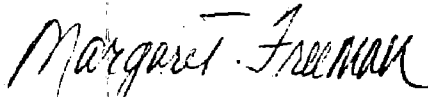
The proposed additional hearing opportunity will involve new costs for the City and devotion of staff time. It will not prevent the property owner from appearing before the City Council to protest the special assessment. Possibly the City Council will be able to make use of the hearing officer's findings (or the property owner's failure to request a hearing) to streamline the public hearing. For the cost of the additional hearing opportunity to be warranted, the Council would have to be prepared to limit the testimony of protesting property owners at the public hearing.


MBE/WBE

This report does not concern the procurement of goods or services.

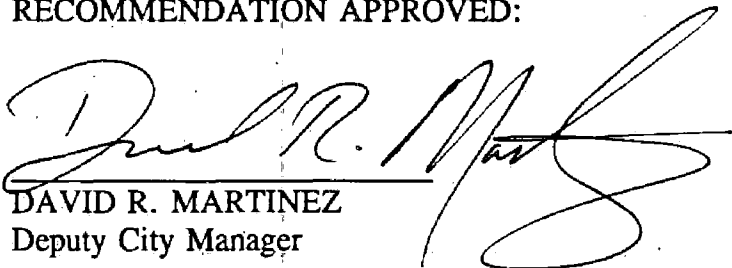
Respectfully submitted,

SAMUEL L. JACKSON
City Attorney


MARGARET FREEMAN
Revenue Manager


DIANE B. BALTER
Deputy City Attorney

RECOMMENDATION APPROVED:


DAVID R. MARTINEZ
Deputy City Manager