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DEPARTMENT OF
PUBLIC WORKS

CITY OF SACRAMENTO
CALIFORNIA

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DEVELOPMENT SERVICES
DIVISION

TERENCE W. MOORE
DIVISION MANAGER

916-449-8210

April 26, 1990

Law & Legislation Committee
Sacramento, California

Honorable Members In Session:

SUBJECT: Enabling Ordinance - Maintenance Districts

SUMMARY

It is recommended that the Law & Legislation Committee review the attached Maintenance District Ordinance and forward it to the full City Council for their approval.

BACKGROUND

Chapter 55 of the City Code provides a procedure for charging property owners fees for additional maintenance services. The type of maintenance services allowed under this Chapter are limited in scope.

Staff, along with bond counsel, have developed the attached new ordinance which will provide an alternative procedure for establishing fees for maintenance and operation of public improvements. This ordinance allows the City to charge fees for the maintenance, servicing, repair, replacement and operation of any local public improvement.

The first maintenance district formed under this procedure will be the Laguna Floodway Maintenance District. Floodway improvements were constructed as part of the Laguna Creek development and financed by the Laguna Creek Assessment District. Mitigation measures for that development required that the floodway improvements be maintained for a five year period.

Staff anticipates that within the near future, mitigation measures for many developments will require that routine maintenance of improvements be carried out over some time period. This ordinance will be utilized for this purpose.

FINANCIAL DATA

Approval of this ordinance does not create any new fees or any new City costs. As specific maintenance districts are formed, administration costs will be incurred and funded through the district.

POLICY CONSIDERATIONS

The City Code already contains a procedure for forming Maintenance Benefit Areas. This alternative procedure allows for a much wider range of maintenance services than those covered in Chapter 55.

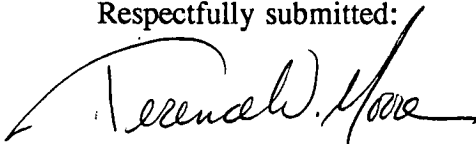
MBE/WBE EFFORTS

No impact.

RECOMMENDATION

It is recommended that the Law & Legislation Committee review the attached ordinance and forward it to the City Council for publication and approval.

Respectfully submitted:



TERENCE W. MOORE
Supervising Engineer

TM:jd
DS6-08.D

Approved:



MELVIN H. JOHNSON
Director of Public Works

April 26, 1990
All Districts

CONTACT PERSON

Fran Lee Halbakken, Associate Civil Engineer
449-2194

ORDINANCE NO.

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF _____

AN ORDINANCE AMENDING THE SACRAMENTO CITY CODE BY ADDING CHAPTER 81 THERETO RELATING TO MAINTENANCE DISTRICTS

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

The Sacramento City Code is hereby amended by adding Chapter 81 thereto entitled and to read as follows:

CHAPTER 81. MAINTENANCE DISTRICTS

§ 81.1 **Authority for Enactment.** This chapter is enacted by the City Council pursuant to its powers as a chartered city under Article XI of the California Constitution.

§ 81.2. **Purpose.** The purpose of this chapter is to provide an alternative procedure by which the City Council may provide for payment of all or any part of the costs and expenses of maintaining and operating any public improvements which are local in nature. Such payment shall be based on annual benefit assessments apportioned among the several lots or parcels of property within the maintenance district established therefor. The nature and formula or formulae for establishing such districts and determining the amount of the assessments shall be determined in accordance with the proceedings set forth herein.

§ 81.3. **Title.** This chapter shall be known and may be cited as the Sacramento Maintenance District Ordinance.

§ 81.4. **Alternative Procedure.** This chapter is alternative to other provisions of this code and to the general laws of the State of California. When the City Council elects to proceed under this chapter, no other provisions of this code or of the general laws shall apply to the proceedings except as specifically stated in this part.

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§ 81.5. **Liberal Construction.** This chapter shall be construed liberally to effect its purpose. With respect to any proceeding conducted under this chapter, no error, irregularity, or informality, and no neglect or omission of any officer, which does not directly affect the jurisdiction of the City Council to order the work, shall avoid or invalidate such proceeding or any assessment for the cost of the work done thereunder. The exclusive remedy of any person affected or aggrieved thereby shall be by appeal to the City Council in accordance with the provisions of this chapter.

§ 81.6. **Definitions.** Unless the context otherwise requires, the following words and phrases as used in this chapter shall have the meanings stated in this section:

City means the City of Sacramento.

Costs or expenses means the cost of maintaining an improvement, including without limitation not only direct costs but all associated and incidental costs including, but not limited to supervisory, administrative, engineering and legal services, and costs of assessment collection and enforcement, whether such services are performed by City or County employees or consultants and contractors retained by the City.

County means the County of Sacramento.

Director means the Director of Public Works of the City of Sacramento.

District or maintenance district means a maintenance district formed pursuant to this chapter.

Engineer means the Director.

Fiscal year means the fiscal year of the City of Sacramento.

Improvement or public improvement means any public improvement of a local nature, including without limitation any improvement described in the Improvement Act of 1911 or the Municipal Improvement Act of 1913 of the State of California.

Maintenance means the maintenance, servicing, repair, replacement and operation of an improvement as defined in this section, including without limitation the furnishing of power, water, heat and other utilities as may be required.

Owner means the owner of land within a district or proposed district as shown on the last equalized assessment roll for taxes of the County, or as known to the City Clerk.

§ 81.7. **Notice.** Wherever notice is required in this chapter, such notice shall be given as follows:

(a) Notice by mail shall be given by depositing the notice in the United States mail, first class, postage prepaid, addressed to the owner at the address shown on the last equalized assessment roll for taxes of the County, or as known to the City Clerk. The notice shall be effective on the date of its mailing. At the discretion of the City, notice by mail may instead be given by certified mail, with or without return receipt requested, or by personal service.

(b) Notice by publication shall be given by publishing the notice once in a newspaper of general circulation published within the City.

(c) Notice by posting shall be given by posting the notice on or near the door of the Council Chambers or on any bulletin board in or adjacent to the City Hall.

§ 81.8. Failure to Mail or Receive Notice; Validation of Proceedings. The failure of the City Clerk to mail any notice or the failure of any person to receive such notice shall not affect the validity of any proceedings taken under this chapter, nor prevent the City Council from proceeding with any noticed hearing.

§ 81.9. Description by Reference to Plan or Map Filed and Open to Public Inspection. Any resolution, notice, report, diagram, or assessment which is required to contain a description of the improvements to be maintained, the boundaries of the assessment district or any zones therein, or the lines and dimensions of any parcel of land, may refer to any plan or map which is on file with the City Clerk, the County Auditor, or the County Assessor and which is open to public inspection. The plan or map referred to shall govern for all details of the description.

§ 81.10. Resolution of Intention. Whenever the City Council determines to form a maintenance district pursuant to this chapter, it shall adopt a resolution which:

(a) States the intention of the City Council to form a maintenance district pursuant to this chapter, and assigns a distinctive name or number to the proposed district.

(b) Generally describes the improvements to be maintained.

(c) Describes the proposed boundaries of the district. The boundaries may be described by reference to a map on file with the City Clerk. The boundaries need not be contiguous. Only land benefitting from the maintenance of the improvements or parts thereof shall be included within the boundaries.

(d) Directs the Engineer to prepare, or cause to be prepared, and file the Engineer's report described in this chapter.

§ 81.11. Assessment of Public Property. Public property owned by any public agency shall not be subject to assessment under this chapter unless the resolution of intention expressly

provides that it shall be assessed. If the resolution provides that City-owned property shall be assessed, the City shall make payments for the amounts so assessed. Any such amounts shall be payable from the general fund or other funds at the discretion of the City. To the extent that public property not owned by the City is assessed, the City shall not be liable for payment of the assessment.

§ 81.12. Engineer's Report. At the direction of the City Council, the Engineer shall prepare a report for the proposed maintenance district. The report shall include the following:

(a) A description of the improvements to be maintained. The description may be by reference to plans included in the report or filed with the report although separately bound.

(b) An estimate of the total cost of maintaining the improvements during the present or forthcoming fiscal year.

(c) A diagram showing: (1) the exterior boundaries of the assessment district; (2) the boundaries of any zones within the district; and the lines and dimensions of each parcel of land within the district. Each subdivision, including each separate condominium interest, as defined in Section 783 of the California Civil Code, shall be given a separate number upon the diagram. The diagram may refer to the county assessor's maps for a detailed description of the lines and dimensions of any parcels, in which case those maps shall govern for all details concerning the lines and dimensions of the parcels. Each parcel shown on the diagram shall be labelled with a distinctive assessment number, which may be the county assessor's parcel number. The lines and dimensions of each parcel shall conform to the county assessor's parcel maps; or the diagram may consist of a copy of the county assessor's parcel maps. The diagram may consist of one or more sheets, and may be included in the report or filed with the report although separately bound.

(d) An assessment roll containing the assessment number of each parcel to be specially assessed, and the amount of each proposed assessment for the present or forthcoming fiscal year. If the County Assessor's parcel number is not used as the assessment number, the assessment roll shall also contain the County Assessor's parcel number.

(e) An explanation of the method or formula by which the Engineer proposes to divide the cost of maintenance among the parcels to be specially assessed. The cost may be apportioned by any method or formula which fairly distributes the cost on the basis of estimated benefits to be received by each parcel from the maintenance of the improvements or portions thereof. For this purpose the district may be divided into zones of benefit, the boundaries of which shall then be shown on the diagram.

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(f) A list of the names and address of all owners of parcels shown on the diagram and in the assessment roll, as shown on the last equalized assessment roll for County taxes or as known to the City Clerk.

§ 81.13. Filing and Acceptance of Report. Upon completion, the Engineer's report shall be filed with the City Clerk for presentation to the City Council. The City Council may accept the report as submitted, modify the report and accept the report as modified, or reject the report. If the report is accepted, the City Council shall set a time and place for a public hearing on the report and shall direct the Director to give notice of the hearing by posting, by publication and by mail.

§ 81.14. Notice of Hearing. Notice of the hearing on the Engineer's report shall be mailed to each owner at least fifteen (15) days, and shall be published and posted at least ten (10) days before the day set for hearing. The notice shall:

(a) Indicate the fact and date of passage of the resolution of intention and state that the City Council intends to levy an annual special assessment on each parcel of land within the proposed district to pay the cost of maintenance of the improvements.

(b) Describe in general the improvements to be maintained.

(c) Describe in general the location and boundaries of the district.

(d) State that the Engineer's report is on file with the City Clerk and is open to public inspection.

(e) State the time and place of the public hearing on the Engineer's report.

(f) State that any owner may, before the time set for hearing, file a written protest against the formation of the proposed district, the boundaries of the district or the amount of the owner's assessment for the first year; and that any owner or other interested person, whether or not filing a written protest, may be heard by the City Council at the public hearing.

(g) State the name and telephone number of the City employee or department where questions about the proposed district will be received.

In addition, notices by mail shall contain the County assessor's parcel number and the amount of the proposed annual assessment on the land of the owner to whom the notice is mailed.

§ 81.15. Written Protest. Any owner may file a written protest with the City Clerk before the time set for the hearing on the Engineer's report. No written protests will be accepted by the City Clerk after the opening of the hearing. Any written protest may be withdrawn

in writing by the owner at any time before the conclusion of the hearing. Each written protest shall state the name of the owner, a description of the owner's land sufficient to identify it, and the specific grounds on which the protest is made. Any written or oral protest not made at the time and in the manner provided in this section shall be deemed to be waived voluntarily by any person who might have made such protest and such person shall be deemed to have consented to the formation and extent of the district, the proposed assessment and any other act, determination, or proceeding on which protest could be made.

§ 81.16. Hearing. At the time set for the public hearing on the Engineer's report, the City Council shall consider all written protests and shall hear and consider all protests made orally by any interested person. Any irregularity of documentation or procedure not specified in the protests shall be deemed waived. The hearing may be continued from time to time. During the hearing or at its conclusion, the City Council may exclude land from the boundaries of the proposed district, may decrease the amount of any assessment and may modify the scope of the improvements to be maintained.

§ 81.17. Additions to Boundaries and Assessment Increases. The City Council may not include additional land within the boundaries of the district or increase the amount of any assessment except with the written consent of the owner of the land to be assessed or except after an additional hearing for which the owner of the land to be assessed has been given notice by mail at least fifteen (15) days before the additional hearing.

§ 81.18. Majority Protest. If, at the conclusion of the hearing, written protests not withdrawn have been filed by the owners of more than fifty percent (50%) of the net land area proposed to be assessed, the City Council shall abandon the proceedings for the formation of the district and shall not reinstitute proceedings to form substantially the same district for a period of one year from the date on which the hearing is concluded, unless the protests have been overruled by the affirmative vote of not less than four-fifths of the members of the City Council.

§ 81.19. Formation of District. At the conclusion of the public hearing on the Engineer's report, unless proceedings for formation of the district have been abandoned, the City Council may adopt a resolution ordering the formation of the district, confirming the diagram and assessment as originally proposed in the Engineer's report or as modified by the City Council, and establishing a district budget for the fiscal year referred to in the report. Adoption of this resolution shall constitute the levy of the confirmed assessment.

§ 81.20. District Budget; Annual Levy. After the formation of the district, the district budget shall be established annually by the City Council as a part of the regular budget approval process for the City as a whole. For this purpose, the Director shall annually prepare or cause to be prepared a report containing the information set forth in Section 81.12 of this chapter. Upon completion, this report shall be filed with the City Clerk for consideration by the City Council. If this report is accepted, either as submitted or as

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modified, the City Council shall set a time and place for a public hearing on the report and shall direct that notice of the hearing be given by publication and posting at least ten (10) days before the day set for the hearing. The notice shall:

(a) State that the City Council intends to levy an annual special assessment on each parcel of land within the proposed district to pay the cost of maintaining of the improvements during the present or forthcoming fiscal year.

(b) Describe in general the improvements to be maintained.

(c) Describe in general the location and boundaries of the district.

(d) State that the Engineer's report is on file with the City Clerk and is open to public inspection.

(e) State the time and place of the public hearing on the Engineer's report.

(f) State that any owner may, before the time set for hearing, file a written protest and any owner or other interested person, whether or not filing a written protest, may be heard by the City Council at the public hearing, provided the hearing shall be limited to protest or objections to the amounts of the proposed assessments or any change in the method or formula by which such assessments were determined.

(g) State the name and telephone number of the City employee or department where questions about the proposed district will be received.

At the time set for the hearing, the City Council shall consider any written protests and any oral protests by any interested person concerning the amounts of the proposed assessments or any change in the method or formula by which these assessments were determined. Upon conclusion of the hearing, the City council may adopt a resolution confirming the diagram and assessment, either as originally proposed in the Engineer's report or as modified by the City Council, and establishing the district budget for the fiscal year referred to in the report. Adoption of this resolution shall constitute the levy of the confirmed assessment. A surplus or a deficit in the district's account at the end of a fiscal year shall be carried over to the following fiscal year. The City may make a contribution or a loan to the district's account at any time from other lawfully available funds of the City.

§ 81.21. Recordation; Collection. Upon levying an assessment as provided in this chapter, the City Council shall direct the City Clerk to execute and record in the office of the County Recorder a notice of assessment in substantially the form described in Section 3114 of the California Streets and Highways Code. Each special assessment levied under this chapter shall thereupon be a lien upon the land on which it is levied. This lien shall be paramount to all other liens, except prior assessments and taxation. The City Council may

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provide for collection of the assessment by the City through the office of the Director of Finance or on behalf of the City through the office of the County Auditor.

§ 81.22. Collection by the County. In the event the City Council directs that the assessment be collected on behalf of the City by the County Auditor, the City Clerk shall file with the County Auditor a certified copy of the assessment and diagram, with a request that the assessments be posted to the County roll for general property taxes. This filing shall occur on or before August 1 of the fiscal year in which the assessments are to be collected. The assessments shall be collected at the same time and in the same manner as general property taxes and all laws providing for the collection and enforcement of such property taxes shall apply to the collection and enforcement of the assessments. After deduction of the collection charges of the County Auditor, the net amount of the assessments collected shall be remitted to the City for the account of the district.

§ 81.23. Collection by the City. In the event the City Council directs that the assessment be collected by the City, the City Clerk shall file the adopted diagram and assessment with the Director of Finance who shall, within thirty (30) days thereafter, cause all of the owners subject to assessment to be billed by mail for the amounts shown on the adopted diagram and assessment. Payment of the assessments shall be due no later than thirty (30) days after the date on which the bills are mailed. Any assessment or portion thereof not paid within this period shall be deemed delinquent and shall be subject to a penalty for delinquency in the amount of ten percent of the delinquent amount plus one percent of the delinquent amount for each thirty days of delinquency.

In the event of a delinquency, the Director of Finance may initiate collection proceedings by filing a report of delinquent assessments with the City Council. Upon receipt of this report, the Council shall fix a time, date and place for a hearing on the report and any protests or objections thereto. Notice of the hearing shall be mailed to the owner of the delinquent property not less than ten (10) days prior to the date of the hearing. At the hearing, the City Council shall consider the report and any objections thereto. The City Council may accept the report as submitted, modify the report and accept it as modified, or reject the report. The decision of the City Council on the report and all protests or objections thereto shall be final and conclusive.

Upon confirmation of the report, the Director of Finance shall be authorized to refer the City's claim in the amount of the delinquent assessment plus any applicable penalties to the County Auditor with a request that this amount be posted to the County roll for general property taxes and collected in the manner described in Section 81.22 of this chapter.

§ 81.24. Contest of Validity. The validity of any assessment levied under this chapter shall not be contested in any action or proceeding unless the action or proceeding is commenced within 30 days after the assessment is levied. Any appeal from a final judgment in such an action or proceeding shall be perfected within 30 days after the entry of judgment.

§ 81.25. **Changes.** From time to time the City Council may make changes to the district. The following changes shall be made only after the affected owners have been given written notice and a public hearing has been conducted in the same manner as for the formation of the district:

- a) Annexation of land to the district, except on the written consent of the owners of all land to be annexed.
- b) An increase in the annual assessment on any parcel.
- c) A change in the method or formula by which the cost of maintenance is distributed among the parcels of land in the district.
- d) A material reduction in the scope of improvements to be maintained.

All other changes, including without limitation the dissolution of the district, annexation to the district with the consent of the owners of the annexed land, or consolidation of two or more districts, may be made without further notice or hearing.

§ 81.26. **Work of Maintenance.** The maintenance of the improvements may be performed by City forces and/or by one or more contractors retained by the City. The letting of contracts for maintenance may be by negotiation or through public bidding in accordance with general procedures and requirements established by the City Council. If maintenance is performed by City forces, the account of the district shall be charged for direct costs, supervision and administration in accordance with normal and reasonable cost accounting standards and procedures.

§ 81.27. **Consolidation of Procedures.** Procedures for the formation of a maintenance district pursuant to this part may be consolidated with procedures for the construction or acquisition of the improvements pursuant to any other provision of this code or pursuant to any law of the State of California, including the Municipal Improvement Act of 1913, the Landscaping and Lighting Act of 1972, and other similar statutes.

DATE ENACTED:

DATE EFFECTIVE:

MAYOR

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ATTEST:

CITY CLERK

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