

CITY COUNCIL AGENDA: AUGUST 20, 2013

SCHEDULED MATTER

SUBJECT: ASSESSMENT DISTRICTS

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT- PLANNING DIVISION
PUBLIC WORKS DEPARTMENT- ENGINEERING DIVISION
PARKS AND LEISURE SERVICES DEPARTMENT

PROJECT LOCATION: CITYWIDE

SPECIFIC REQUEST:


Staff is requesting that the City Council provide further direction on the future use of Assessment Districts that may include Lighting and Landscape Maintenance Districts and/or Benefit Assessment Districts, and the use thereof for infrastructure, pocket parks, and frontage improvements benefitting the assessed properties within a given district.

BACKGROUND:

Lighting and Landscape Maintenance Districts ("LMDs" or "Districts") have been employed by the City of Porterville since 1989, as a funding source for maintaining quality infrastructure improvements in residential developments. Currently, contract personnel for the Parks and Leisure Services Department provide the service of maintaining the LMDs. The contracted services are wholly funded by the assessments received from the Districts.

The City's General Plan, the Development Ordinance, and the Municipal Code all define expectations of the private property owners' financial responsibilities within the public rights of way as it relates to landscaped streets and public improvements where a direct benefit to the property owner can be demonstrated.

In 2008, the City Council adopted the 2030 General Plan, which is the policy document that provides the basis of all future development in the City of Porterville. The General Plan provides a policy framework to guide decision making. The Development Ordinance ensures adequate provision of parks and recreation facilities, open space, infrastructure, and the continued safe and efficient operation of Porterville's circulation system. Four of the policies within the General Plan address landscaped transportation corridors.

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APPROPRIATED/FUNDED N/A

CM 

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The following is a summary of policies pertaining to the development of facilities that support sustainable growth of the city:

C-G-5: Improve the scenic character of transportation corridors in the City.

C-I-6: Require the installation of landscaping in center medians and at major intersections to minimize summer heat and enhance the character of the streetscapes.

C-I-7: Require street tree planting as part of an urban forestry program.

C-I-24: Amend the Zoning Ordinance to include standards for pedestrian circulation in all new development, including patterned concrete sidewalks, pedestrian scale lighting, and tree canopy shading for walkways.

The City's Development Ordinance, the primary implementation tool of the General Plan, calls for improvements associated with development to be maintained by some defined mechanism, such as a Lighting and Landscape Maintenance District or a Home Owners' Association. The most widely used mechanism has become the Lighting and Landscape Maintenance District, as the administration and monitoring of the maintenance then falls to the City, as opposed to a Home Owners' Association, which requires a volunteer board of directors and is prone to reduced effectiveness over time. Benefit Assessment Districts are another, more broadly applicable mechanism, and are allowed by the Development Ordinance as well. Benefit Assessment Districts would be more appropriate for street improvements and other items not specifically landscape or lighting related. Section 403.03 Design and Construction Standards, provides specific standards for the extension of improvements and the maintenance thereof. City staff is working to supplement the language with additional detail, with assistance from the Development Ordinance Committee (Committee).

Chapter 19, Article II of the Porterville Municipal Code addresses Parkway Trees. The City has adopted guidelines relative to street trees, their care, maintenance, and the responsibility of hardscape repair as a result of damage by street trees. Section 19-49 specifically states: "In new residential, commercial, and industrial developments, the developer shall plant street trees in the size, number, manner, and type required by the street tree guidelines and the city improvement standards. Funding for long term maintenance and care of the street trees, and repair to infrastructure damaged by the street trees, in new developments shall be provided through a homeowners' association or a similar assessment district."

Clearly, the City has an established interest in the development and preservation of landscaped transportation corridors and similar amenities within developments. With new developments, the initial funding for such improvements has been a requirement of the developer with ongoing maintenance generated by a LMD assessment. The variable component has been and continues to be a matter of what improvements are required at a minimum, compared to amenities offered by the developer.

COMMENT: A variety of options have been developed by Staff and the Committee that achieve different degrees of improvements to be included in future Lighting and Landscape Maintenance Districts or Benefit Assessment Districts. These options are presented below as Tiers 1 through 4 as a basis for discussion and could be altered to suit the Council's goals.

Tier 1: The most basic tier would be to continue the use of LMDs as they currently exist. Current LMDs include perimeter landscaping along major street frontages, and a proportional share of the street light costs within and at the perimeter of the subdivision. The estimated cost per year ranges from \$73.04 to \$98.44 per lot per year.

Tier 2: In addition to the components of Tier 1, this option would add parkway strips to the list of landscaped areas to be maintained through the assessment(s). Parkway strips, the landscaped area along a street frontage between the sidewalk and the curb, are maintained in different manners depending on the jurisdiction. The intent of including parkway strips in a LMD or Benefit Assessment District, as opposed to leaving the responsibility of maintenance with the individual property owner, is that the entire street length would have a consistent look, which truly achieves the intent of the landscaped parkway strips. If the parkway strips are included in a district, the irrigation and maintenance of those areas would be independent of the property which they front but would be maintained to provide consistency of maintenance and appearance and, most notably, longevity of improvements.

Further, this tier would create a Benefit Assessment District to fund infrastructure improvements within the subdivision including curb, gutter, and sidewalks. Maintenance of these hardscape elements are currently the responsibility of individual homeowners, and an annual assessment could simplify the responsibility by allowing the City a mechanism to monitor and complete necessary repairs. The Council may draw a comparison to the recently approved sewer assessment district, and the popularity of that option among homeowners. The estimated cost of replacement of curb,

gutter, and sidewalks is based on a 40-year life for those improvements. The estimated cost per year ranges from \$184.43 to \$222.00 per lot per year.

Tier 3: The third tier shifts maintenance responsibility of parkway strips to the homeowners while incorporating road maintenance costs (in addition to the other hardscape features previously mentioned) with a Benefit Assessment District. The estimated cost per year ranges from \$188.79 to \$230.68 per lot per year.

Tier 4: The fourth option returns the maintenance responsibility of parkway strips to the District and includes a Benefit Assessment District for street maintenance, curbs, gutters, and sidewalks, as well as the perimeter landscaping and lighting. The estimated cost per year ranges from \$272.23 to \$323.20 per lot per year.

Tier 5: Elements such as pocket parks, on-site drainage retention basins, or other benefits specific to a residential development could also be included in a Lighting and Landscape Maintenance District or Benefit Assessment District. Costs associated with these features were not estimated, as the creation of such features are typically submitted as a design component with the original subdivision, and development costs are borne by the developer.

RECOMMENDATION: That the City Council provide direction on the future use of Lighting and Landscape Maintenance Districts or Benefit Assessment Districts, and the use thereof for infrastructure, pocket parks, and frontage improvements benefitting the assessed properties within a given district.

ATTACHMENTS:

1. Street and Highways Code Section 5180-5182
2. Street and Highway Code Section 22500-22509
3. Street and Highway Code Section 22520-22540
4. Street and Highway Code Section 22565-22574

STREETS AND HIGHWAYS CODE

SECTION 5180-5182

5180. The legislative body shall make the expense of such work chargeable upon a district, which the legislative body shall, in its resolution of intention, declare to be the district benefited by the work, and to be assessed to pay the cost and expense thereof. The territory comprising said district may, but need not, include all, or be confined to, or extend beyond, the lots or lands fronting upon the improvement, or be contiguous, and the district may consist of separate and distinct areas or sections. The work performed in one section need not benefit the other section or sections.

5181. The district may be described by:

- (a) Stating its exterior boundaries; or
- (b) Giving a description thereof according to any official or recorded map; or
- (c) Referring to a plat or map on file in the office of the clerk or engineer at the time of passing the resolution of intention, which shall indicate by a boundary line the extent of the territory included in the proposed district, and shall govern for all details as to the extent of the assessment district.

5182. The assessment district need not be described in any of the notices, resolutions, orders or determinations provided for in this division, other than the resolution of intention. Any description of said district in any of the same shall be sufficient, if it refers to the resolution of intention for a description of the district.

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ITEM NO. 1

STREETS AND HIGHWAYS CODE

SECTION 22500-22509

22500. This part shall be known and may be cited as the "Landscaping and Lighting Act of 1972."

22501. This part shall apply to local agencies whose annual taxes are carried on the county assessment roll and are collected by the county, or an agency or entity created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code and made up solely of local agencies whose annual taxes are carried on the county assessment roll and are collected by the county.

22502. This part provides an alternative procedure for making the improvements herein authorized and shall not apply to or affect any other provisions of this code.

22503. An assessment district shall consist of all territory which, as determined by the legislative body, will be benefited by the improvements and is to be assessed to pay the costs thereof.

22504. An assessment district may consist of all or any part of the territory within the local agency and, in the case of a county, may consist of all or any part of the unincorporated territory of the county.

22505. An assessment district may consist of contiguous or noncontiguous areas. The improvements in one area need not be of benefit to other areas.

22506. The provisions of Chapter 2 (commencing with Section 5115) of Part 3 of Division 7, pertaining to the extension of the work or the assessment district beyond the boundaries of a local agency, are by this reference incorporated in this part.

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22507. Division 4 (commencing with Section 2800) and Division 4.5 (commencing with Section 3100) do not apply to this part or proceedings taken pursuant to this part, except that Division 4.5 (commencing with Section 3100) does apply to proceedings in which the legislative body determines to issue bonds or notes pursuant to Section 22662.5, and may be applied to any other proceedings pursuant to this part at the discretion of the legislative body.

22508. Any resolution, notice, report, diagram or assessment which is required to contain a description of the improvements, the boundaries of the assessment district or any zones therein, or the lines and dimensions of any lot or parcel of land may, for a full and detailed description thereof, refer to any plan or map which is on file with the clerk, the county auditor, or the county assessor and which is open to public inspection. The plan or map so referred to shall govern for all details of the description.

22509. This part shall be liberally construed to effectuate its purpose. Any proceedings taken under this part and any assessment levied pursuant thereto shall not be invalidated for failure to comply with the provisions of this part if such failure does not substantially and adversely affect the rights of any person. All determinations made by the legislative body pursuant to this part shall be final and conclusive in the absence of fraud or prejudicial abuse of discretion.

STREETS AND HIGHWAYS CODE

SECTION 22520-22540

22520. The definitions contained in this article govern the construction of this part unless the context otherwise requires. The definition of a word or phrase applies to any variants thereof.

22521. "Assessment district" means an assessment district formed pursuant to this part.

22522. "Clerk" means the clerk or secretary of a local agency or its legislative body.

22523. "Engineer" means the city engineer, county engineer, engineer of the district, or any other person designated by the legislative body as the engineer for the purposes of this part, including any officer, board, or employee of the local agency or any private person or firm specially employed by the local agency as engineer for the purposes of this part.

22524. "Fiscal year" means a 12-month period commencing on July 1 and ending on the following June 30.

22525. "Improvement" means one or any combination of the following:

- (a) The installation or planting of landscaping.
- (b) The installation or construction of statuary, fountains, and other ornamental structures and facilities.
- (c) The installation or construction of public lighting facilities, including, but not limited to, traffic signals.
- (d) The installation or construction of any facilities which are appurtenant to any of the foregoing or which are necessary or convenient for the maintenance or servicing thereof, including, but not limited to, grading, clearing, removal of debris, the installation or construction of curbs, gutters, walls, sidewalks, or paving, or water, irrigation, drainage, or electrical facilities.
- (e) The installation of park or recreational improvements, including, but not limited to, all of the following:

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(1) Land preparation, such as grading, leveling, cutting and filling, sod, landscaping, irrigation systems, sidewalks, and drainage.

(2) Lights, playground equipment, play courts, and public restrooms.

(f) The maintenance or servicing, or both, of any of the foregoing, and of any improvement authorized by subdivision (i).

(g) The acquisition of land for park, recreational, or open-space purposes.

(h) The acquisition of any existing improvement otherwise authorized pursuant to this section.

(i) The acquisition or construction of any community center, municipal auditorium or hall, or similar public facility for the indoor presentation of performances, shows, stage productions, fairs, conventions, exhibitions, pageants, meetings, parties, or other group events, activities, or functions, whether those events, activities, or functions are public or private.

22526. "Incidental expenses" include all of the following:

(a) The costs of preparation of the report, including plans, specifications, estimates, diagram, and assessment.

(b) The costs of printing, advertising, and the giving of published, posted, and mailed notices.

(c) Compensation payable to the county for collection of assessments.

(d) Compensation of any engineer or attorney employed to render services in proceedings pursuant to this part.

(e) Any other expenses incidental to the construction, installation, or maintenance and servicing of the improvements.

(f) Any expenses incidental to the issuance of bonds or notes pursuant to Section 22662.5.

(g) Costs associated with any elections held for the approval of a new or increased assessment.

22527. "Including," unless expressly limited, means including without limitation.

22528. "Landscaping" means trees, shrubs, grass, or other ornamental vegetation.

22529. "Legislative body" means the legislative body or governing board of any local agency.

22530. "Local agency" means a county, a city and county, a city, a special district, or an agency or entity created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code and made up solely of local agencies whose annual taxes are carried on the county assessment roll and are collected by the county.

22531. "Maintain" or "maintenance" means the furnishing of services and materials for the ordinary and usual maintenance, operation, and servicing of any improvement, including:

(a) Repair, removal, or replacement of all or any part of any improvement.

(b) Providing for the life, growth, health, and beauty of landscaping, including cultivation, irrigation, trimming, spraying, fertilizing, or treating for disease or injury.

(c) The removal of trimmings, rubbish, debris, and other solid waste.

(d) The cleaning, sandblasting, and painting of walls and other improvements to remove or cover graffiti.

22532. "Property owner" means: any person shown as the owner of land on the last equalized county assessment roll; when such person is no longer the owner, then any person entitled to be shown as owner on the next county assessment roll, if such person is known to the local agency; where land is subject to a recorded written agreement of sale, any person shown therein as purchaser.

22533. "Public agency" means the state or federal governments, any city, city and county, county, or other public corporation formed pursuant to charter, general law, or special act, for the performance of governmental or proprietary functions within limited boundaries and any department, board, commission, independent agency, or instrumentality of any of the foregoing.

22534. "Public lighting facilities" means all works or improvements used or useful for the lighting of any public places, including ornamental standards, luminaires, poles, supports, tunnels, manholes, vaults, conduits, pipes, wires, conductors, guys, stubs, platforms, braces, transformers, insulators, contacts, switches, capacitors,

meters, communication circuits, appliances, attachments, and appurtenances.

22535. "Public places" means one or any combination of the following:

(a) Any public street, highway, road, alley, lane, boulevard, parkway, or other way dedicated to or used for public use.

(b) Any public property, right-of-way, or leasehold interest which is in use in the performance of a public function and which adjoins any of the ways described in subdivision (a).

22536. "Public utility" means any public utility subject to the jurisdiction of and regulated by the Public Utilities Commission.

22537. "Resolution" includes an ordinance.

22538. "Service" or "servicing" means the furnishing of:

(a) Electric current or energy, gas, or other illuminating agent for any public lighting facilities or for the lighting or operation of any other improvements.

(b) Water for the irrigation of any landscaping, the operation of any fountains, or the maintenance of any other improvements.

22539. "Special district" means any public corporation, other than a county or a city, formed pursuant to general law or special act for the local performance of governmental or proprietary functions within limited boundaries and which is authorized by such law or act to make any of the improvements or to furnish the maintenance or services provided for in this part.

22540. "Treasurer" means the treasurer of a local agency.

STREETS AND HIGHWAYS CODE SECTION 22565-22574

22565. The engineer shall prepare reports in accordance with this article.

22566. A report shall be prepared for each fiscal year for which assessments are to be levied and collected to pay the costs of the improvements described in the report.

22567. A report shall refer to the assessment district by its distinctive designation, specify the fiscal year to which the report applies, and, with respect to that year, shall contain all of the following:

- (a) Plans and specifications for the improvements.
- (b) An estimate of the costs of the improvements.
- (c) A diagram for the assessment district.
- (d) An assessment of the estimated costs of the improvements.
- (e) If bonds or notes will be issued pursuant to Section 22662.5, an estimate of their principal amount.

22568. The plans and specifications shall show and describe existing and proposed improvements. The plans and specifications need not be detailed, but shall be sufficient if they show or describe the general nature, location, and extent of the improvements. If the assessment district is divided into zones, the plans and specifications shall indicate the class and type of improvements to be provided for each such zone. The plans or specifications may be prepared as separate instruments or either or both may be incorporated in the diagram as a combined instrument.

22569. The estimate of the costs of the improvements for the fiscal year shall contain estimates for all of the following:

- (a) The total costs for improvements to be made that year, being the total costs of constructing or installing all proposed improvements and of maintaining and servicing all existing and proposed improvements, including all incidental expenses. This may include a reserve which shall not exceed the estimated costs of maintenance and servicing to December 10 of the fiscal year, or

**ATTACHMENT
ITEM NO. 4**

whenever the city expects to receive its apportionment of special assessments and tax collections from the county, whichever is later.

(b) The amount of any surplus or deficit in the improvement fund to be carried over from a previous fiscal year.

(c) The amount of any contributions to be made from sources other than assessments levied pursuant to this part.

(d) The amount, if any, of the annual installment for the fiscal year where the legislative body has ordered an assessment for the estimated cost of any improvements to be levied and collected in annual installments.

(e) The net amount to be assessed upon assessable lands within the assessment district, being the total improvement costs, as referred to in subdivision (a), increased or decreased, as the case may be, by any of the amounts referred to in subdivision (b), (c), or (d).

22570. The diagram for an assessment district shall show (a) the exterior boundaries of the assessment district, (b) the boundaries of any zones within the district, and (c) the lines and dimensions of each lot or parcel of land within the district. Each lot or parcel shall be identified by a distinctive number or letter.

22571. The lines and dimensions of each lot or parcel of land shown on the diagram shall conform to those shown on the county assessor's maps for the fiscal year to which the report applies. The diagram may refer to the county assessor's maps for a detailed description of the lines and dimensions of any lots or parcels, in which case, those maps shall govern for all details concerning the lines and dimensions of such lots or parcels.

22572. The assessment shall refer to the fiscal year to which it applies and shall do all of the following:

(a) State the net amount, determined in accordance with Section 22569, to be assessed upon assessable lands within the assessment district, which shall include an amount sufficient to pay the principal and interest due during the fiscal year from each parcel on any bonds or notes issued pursuant to Section 22662.5.

(b) Describe each assessable lot or parcel of land within the district.

(c) Assess the net amount upon all assessable lots or parcels of land within the district by apportioning that amount among the several lots or parcels in proportion to the estimated benefits to be received by each lot or parcel from the improvements.

The assessment may refer to the county assessment roll for a description of the lots or parcels, in which case that roll shall govern for all details concerning the description of the lots or parcels.

22573. The net amount to be assessed upon lands within an assessment district may be apportioned by any formula or method which fairly distributes the net amount among all assessable lots or parcels in proportion to the estimated benefits to be received by each such lot or parcel from the improvements.

The determination of whether or not a lot or parcel will benefit from the improvements shall be made pursuant to the Improvement Act of 1911 (Division 7 (commencing with Section 5000)).

22574. The diagram and assessment may classify various areas within an assessment district into different zones where, by reason of variations in the nature, location, and extent of the improvements, the various areas will receive differing degrees of benefit from the improvements. A zone shall consist of all territory which will receive substantially the same degree of benefit from the improvements.
