

**TO:** James L. App, City Manager  
**FROM:** Joseph M. Deakin, Public Works Director  
**SUBJECT:** Petition Regarding Assessment Fees (Riverbank Tract)  
**DATE:** June 17, 2003

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**NEEDS:** For the City Council to consider receiving and filing a petition from Riverbank Tract residents.

- FACTS:**
1. On May 23, 2003, the City received a document entitled "PETITION to the City of Paso Robles" (the "Petition"). The Petition was delivered to the Deputy City Clerk. Upon receipt, the Clerk sealed the document in an envelope and placed it in a secure location. A copy of the Petition was forwarded to the City Attorney for assessment and analysis.
  2. The Petition states that the signatories reside in the Riverbank Tract of Paso Robles. However, this claim has not been confirmed by City staff or legal counsel (signatures have not been verified). In addition, the City has not determined whether the signatories are property owners.
  3. The Petition states that the individuals who signed it object to the Landscape and Lighting District charges and wish to have the charges removed from their tax rolls.
  4. Independent from the Petition, the City, pursuant to Proposition 218, distributed ballots to determine whether assessments could be increased within Sub Areas of the Landscape and Lighting District. Proposition 218 prevents the City from substituting the Petition for the ballots in the balloting proceeding. In other words, the Petition is independent of the ballot process. Therefore, signatures on the Petition will not be counted during the ballot tabulation process (which will be considered separately by the City Council on June 17, 2003).
  5. The Riverbank Tract residents have been notified via mail that the Petition would not replace the need for responding to the ballot initiated by the City. They were also informed that the Petition was not in a form that could be considered as a request to take any specific action, and that the City Council would be informed of the Petition, in the context of an informational notice by residents.

**ANALYSIS  
AND**

**CONCLUSION:** The City developed a Landscape and Lighting District ("L&L District") in 1989 to facilitate community maintenance for neighborhood improvements through a collectively approved process. The formation of a L&L District was an explicit condition of approval for the development of the Riverbank Tract. An L&L District provides a method to fairly allocate the cost of funding maintenance and/or operations needs specific to a neighborhood by assessing neighborhood property owners a proportionate share of the maintenance and/or operations costs. Tracts that have been developed since the L&L District was formed have chosen to join the collective L&L District (by "Sub Area") to provide community maintenance and/or operations needs. To date, since the L&L District was formed, no Sub-Areas have petitioned the City to be detached from the L&L District.

The "Petition" was reviewed by the City Attorney to determine its purpose and legal effect. The Petition cannot be considered or treated as a substitute for the assessment ballot that was sent to property owners regarding a proposed assessment increase in Sub Areas 5, 16 and 27;

- The Petitioners request that their assessments due to the L and L District be removed, however that request does not comply with the required procedures

under Proposition 218. It is unclear whether the Petition seeks to have all assessments removed, or whether it simply protests the proposed increased assessments. The City Council may receive and file the Petition and take additional testimony if it so desires.

#### Requirements for an Initiative or Petition

The Petition does not meet the legal requirements to effect the type of change it requests. First, the specific request is unclear. Second, while Proposition 218 allows for an initiative to reduce or repeal an assessment, described in the California Constitution Article XIII D, § 3, the Petition does not comply with the requirements of, among other things, the provisions of the California Elections Code or the provisions of the Landscape and Lighting District Act. For example, the Elections Code has very specific requirements regarding the format and circulation process of initiative petitions that must be followed

The Landscape and Lighting District Act does allow the City Council to order territory detached from an existing assessment district. Generally, the same procedures for setting up an assessment district must be followed (including resolutions, a report, notices of a hearing and a right of majority protest) except that the proceeding is limited to the territory proposed to be detached (under Streets & Highways Code § 22609).

Thus, if the City Council so chooses, it may initiate proceedings to detach territory from the L&L District – however, this process is discretionary. The City is not required to initiate such proceedings, nor is the City required to initiate such proceedings in response to the Petition. In addition, the staff would recommend that, prior to taking any such action, it be directed to provide the City Council and public with information regarding the possible consequences of or conditions to any such detachment. These could include, for example, the requirement that a homeowners association be formed to collect dues and assume full maintenance responsibilities or closure or sale of neighborhood parks.

#### **POLICY**

**REFERENCE:** California Constitution Article XIII; Streets & Highways Code Sections 22605 and 22609; Elections Code Section 9201; Proposition 218.

#### **FISCAL**

**IMPACT:** None (under Option a, below).

#### **OPTIONS:**

- a. For the City Council to receive and file a “petition” filed by and on behalf of the residents of the Riverbank neighborhood to the City Council, submitted to the City on May 23, 2003.
- b. Amend, modify or reject the above option.

Attachments (1)

(1) Petition submitted May 23, 2003

**ALL ATTACHMENTS TO THIS STAFF REPORT MAY NOT BE AVAILABLE  
IN DIGITAL FORMAT FOR VIEWING ON-LINE.**

A hard-copy of the complete agenda packet, along with all staff reports, exhibits and attachments, is available for review in the City Clerk's Office.

**Packets are also available for loan from the City Library,  
beginning on the Friday before each Council meeting.**