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DEPARTMENT OF
PUBLIC WORKS

SPECIAL DISTRICTS
DIVISION

CITY OF SACRAMENTO
CALIFORNIA

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SACRAMENTO, CA
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April 1, 1997

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Law and Legislation Committee
Sacramento, California

Committee Members In Session:

**SUBJECT: AN ORDINANCE ADOPTING MAILED BALLOT PROCEDURES
PURSUANT TO ARTICLE XIID OF THE CALIFORNIA CONSTITUTION
FOR ASSESSMENTS AND FOR PROPERTY RELATED FEES AND
CHARGES**

LOCATION AND COUNCIL DISTRICT: Citywide, all council districts.

RECOMMENDATION:

This report recommends that the City Council adopt the attached ordinance amending Title 62 of the Sacramento City Code to provide mailed ballot procedures for assessments and for property related fees and charges.

CONTACT PERSON: Karen Shipley, Special Districts Analyst, 264-5236

FOR COMMITTEE MEETING OF: April 15, 1997

SUMMARY:

The proposed ordinance is an administrative procedure to clarify the ballot process pursuant to Article XIID of the California Constitution relating to assessments and property related fees and charges. The change in the constitution was a result of the passage of Proposition 218 in November 1996. Adoption of the ordinance will amend City Code Title 62 by adding a ballot process.

BACKGROUND:

A statewide election held in November 1996 approved Proposition 218 commonly referred to as the "Right to Vote on Taxes Act." In part, provisions of the Act set forth a mailed ballot procedure for assessments and for property related fees and

charges. The proposed ordinance is simply an administrative procedure to clarify the ballot process.

FINANCIAL CONSIDERATIONS:

The cost of conducting a mailed ballot will vary depending on the size of the district and nature of assessment or property related fee/charge, and will be presented to council when new districts are proposed.

ENVIRONMENTAL CONSIDERATIONS:

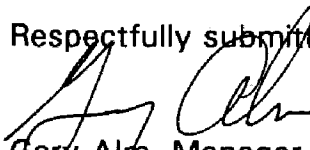
Council's action in adopting the attached ordinance is exempt from CEQA because it will have no conceivable effect on the physical environment and is therefore not within the definition of a CEQA project.

POLICY CONSIDERATIONS:


The proposed ordinance clarifies the ballot process approved by the passage of Proposition 218.

MBE/WBE: None, no goods or services are being purchased.

Respectfully submitted,


Gary Alm, Manager
Real Estate Services & Special Districts

Approved by,


Michael Kashiwagi
Director of Public Works

RECOMMENDATION APPROVED:



BETTY MASUOKA
Deputy City Manager

Attachment

File:97059

ORDINANCE NO.

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF _____

AN ORDINANCE ADOPTING MAILED BALLOT PROCEDURES PURSUANT TO ARTICLE XIID OF THE CALIFORNIA CONSTITUTION FOR ASSESSMENTS AND FOR PROPERTY RELATED FEES AND CHARGES

Be it enacted by the Council of the City of Sacramento as follows:

Section 1. Procedures for assessments.

Title 62 of the Sacramento City Code is amended to add Chapter 62.07, to read as follows:

Chapter 62.07. Mailed ballot procedures for assessments.

62.07.700 Authority.

This chapter is adopted pursuant to Sacramento City Charter section 150, Article XI, Section 5 of the California Constitution, and Article XIID, Section 4 of the California Constitution.

62.07.701 Intent.

This chapter is intended to implement the provisions of Article XIID, Section 4 of the California Constitution, which requires a mailed ballot procedure for all new and certain increased assessments, and for certain assessments existing on November 6, 1996, where no exemption is specified. This chapter imposes requirements which are in addition to applicable statutory requirements for creation of assessment districts and levying assessments, where the procedures specified in state law are being utilized for the purposes of formation of the district, levy of the assessments and, where applicable, the issuance of bonds. For purposes of this chapter, the term "assessment" shall have the meaning ascribed that term in Article XIID,

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Section 2(b) of the California Constitution. Except where otherwise required by context, the term "assessment" as used in this chapter includes increases in existing assessments, where such increases require utilization of the procedures specified in this chapter.

62.07.702 Notices.

(a) Where appropriate, notices required by this chapter may be combined with notices required by any applicable state law being utilized for the purposes of formation of the district, levy of the assessments and, where applicable, the issuance of bonds.

(b) In addition to notices required by any applicable state law governing the proceedings, the city clerk shall provide notice of hearing on a proposed assessment in accordance with the provisions of this chapter.

(c) Notice of the public hearing on a proposed assessment shall be given by mail to the record owner of each parcel to be assessed at least forty-five (45) days prior to the scheduled date of the public hearing. In the event that the hearing is opened and continued to a future date, no further notice is required by this chapter; provided, however, that in the event of such a continuance, applicable notice provisions of state law governing the proceedings shall be complied with, to the extent such state law requires further notice. For purposes of this chapter, "record owner of each parcel to be assessed" shall mean those owners or tenants whose names appear as the record owner, on the latest equalized tax roll as published by the County Assessor of the County of Sacramento.

(d) Each notice required to be given pursuant to this chapter shall contain all of the following provisions, in addition to any further requirements specified in any applicable state law governing the proceedings:

(1) The amount proposed to be charged as an assessment for the specific parcel;

(2) The total amount of the assessment proposed to be charged to the assessment district;

(3) The length of time that the proposed assessment will be in place;

(4) The reason or reasons for the assessment and the basis upon which the proposed assessment for the specific parcel was calculated;

(5) The date, time and location of the public hearing on the proposed assessment;

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(6) The address at which the engineer's report and other materials pertinent to the assessment may be reviewed, and the period of time during which the review may take place;

(7) A ballot substantially in the form set forth below:

Parcel No. _____ [city fills in from assessor roll]
Record owner: _____ [city fills in from assessor roll]
Address: _____ [city fills in from assessor roll]

___ Yes, I approve of the proposed annual assessment of
\$ _____ [preprinted] on the parcel identified in this ballot.
___ No, I do not approve of the proposed assessment on this parcel.

Record owner or authorized representative of owner entity

This ballot is to be returned to: City Clerk, City of Sacramento, 915 I Street, Sacramento, CA 95814, sealed in the envelope included.

(8) A summary of the ballot procedure specified in section 62.07.703 of this chapter, with instructions for the completion, sealing and return of the ballot; and

(9) A return envelope preprinted as required by section 62.07.703 for the return of the ballot. The envelope shall have the following statement printed in the upper right corner: "Post office will not deliver without proper postage affixed."

62.07.703 Ballot procedures.

(a) The ballot shall be included with the mailed notice, and shall be in the form specified in section 62.07.702 of this chapter, with the information as to parcel number, owner name and address, and proposed parcel assessment filled in.

(b) A return envelope shall also be included with the mailed notice. The envelope shall be preprinted with the return address of the city clerk; it shall also contain blanks for the owner or authorized representative to fill in the owner's address, a sworn declaration stating that the person executing the ballot and envelope is the record owner of the parcel or the authorized representative of the record owner, and a signature.

(c) The notice specified in section 62.07.702 of this chapter shall set forth instructions for completion, sealing and return of the ballot. Returned ballots which are not sealed, or which

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do not contain the information properly filled in on the envelope, or which are not properly signed, shall be rejected.

(d) Ballots may be returned by mail, in person at the office of the city clerk, or in person at the public hearing on the proposed assessment; provided, however, that all ballots must be returned prior to the close of the public hearing on the proposed assessment. In the event that the public hearing has been opened and continued to another date or dates, ballots may be returned through and including the said date or dates, and until the close of the hearing.

(e) The city clerk shall receive and retain unopened all returned ballots, whether such ballots be returned by mail or in person before or during the hearing.

(f) Upon close of the public hearing, or as soon thereafter as is reasonably possible, and upon verification of the signature and other information, those ballots which have been properly and timely returned and not rejected shall be opened and tabulated by the city clerk. Tabulation shall be in accordance with the following procedures:

(1) The dollar amount of the assessments attributable to all of those ballots in favor of the assessment shall be totalled;

(2) The dollar amount of the assessments attributable to all of those ballots in opposition to the assessment shall be totalled;

(3) The assessment may be imposed only if the total dollar amount of the assessments in favor of the assessment exceeds the total dollar amount of the assessments in opposition to the assessment. In the event of a tie, the assessment may not be imposed. In the case of an increase in an existing assessment, which existing assessment is exempt from mailed ballot requirements, the failure of those submitting ballots to approve the increase shall have no effect upon the existing assessment.

(4) All ballots, including those which were rejected for noncompliance with the requirements of this chapter, shall be retained by the city clerk for a period of three (3) years. All ballots shall be deemed to be public records upon completion of the tabulation.

(5) Nothing in this chapter shall preclude the city council from employing a private consultant, or the county registrar of voters, to administer all or part of the ballot process.

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62.07.704 Public Hearing.

Not less than forty-five (45) days after mailing the notice of the proposed assessment in accordance with this chapter, the City Council shall hold a public hearing on the proposed assessment.

Section 2. Procedures for property related fees and charges.

Title 62 of the Sacramento City Code is amended to add Chapter 62.08, to read as follows:

62.08.800 Authority.

This chapter is adopted pursuant to Sacramento City Charter section 150, Article XI, Section 5 of the California Constitution, and Article XIID, Section 6 of the California Constitution.

62.08.801 Intent.

This chapter is intended to implement the provisions of Article XIID, Section 6 of the California Constitution, which authorizes a mailed ballot procedure for all new and certain increased property related fees and charges. For purposes of this chapter, the term "property related" shall have the meaning ascribed that term in Article XIID, Section 2(e) and (h) of the California Constitution. Nothing in this chapter shall be construed to affect those fees or charges which are not property related fees or charges. Except where otherwise required by context, the term "property related fee or charge" as used in this chapter includes increases in existing property related fees or charges, where such increases require utilization of the procedures specified in this chapter.

62.08.802 Notices.

(a) Where appropriate, notices required by this chapter may be combined with notices required by any applicable state law relating to imposition or increase of fees or charges.

(b) In addition to notices required by any applicable state law governing the imposition or increase of fees or charges, the city clerk shall provide notice of hearing on a proposed property related fee or charge in accordance with the provisions of this chapter.

(c) Notice of the public hearing on a proposed property related fee or charge shall be given by mail to the record owner of each parcel upon which the fee or charge is proposed to be imposed or increased at least forty-five (45) days prior to the scheduled date of the public hearing. In the event that the hearing is opened and continued to a future date, no further notice is required by this chapter; provided, however, that in the event of such a continuance, applicable notice provisions of state law governing the proceedings shall be complied with, to

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the extent such state law requires further notice. For purposes of this chapter, "record owner of each parcel" shall mean those owners or tenants whose names appear on the latest equalized tax roll as published by the County Assessor of the County of Sacramento.

(d) Each notice required to be given pursuant to this chapter shall contain all of the following provisions, in addition to any further requirements specified in any applicable state law governing the proceedings:

(1) The amount of the property related fee or charge proposed to be imposed for the specific parcel; this requirement may be satisfied by a reference in one notice to a document on file with the City Clerk, and a statement that the owner may obtain the exact fee by calling the City Clerk or some other specified staff person or office, and giving the specific phone number to call;

(2) The reason or reasons for the property related fee or charge and the basis upon which the proposed fee or charge for the specific parcel was calculated;

(3) The date, time and location of the public hearing on the proposed property related fee or charge;

62.08.803 Public Hearing.

Not less than forty-five (45) days after mailing the notice of the proposed property related fee or charge in accordance with this chapter, the City Council shall hold a public hearing on the proposed fee or charge. At the public hearing the City Council shall consider all protests against the proposed fee or charge. If written protests against the proposed fee or charge are presented by a majority of owners of the parcels which will be subject to the fee or charge, the fee or charge shall not be imposed. In the case of an increase in an existing fee or charge, a successful majority protest shall have no effect upon the existing fee or charge. Any protest which is irregular for any reason, including but not limited to those which are made by persons or entities not the owner of a parcel which will be subject to the fee or charge, may be rejected by the City Council.

62.08.804 Ballot procedures.

The provisions of this section shall apply only to those fees or charges for which Article XIII D, Section 6 of the California Constitution requires a mailed ballot procedure after the public hearing.

In the event that no majority protest occurred at the public hearing, not less than forty-five (45) days after the public hearing a ballot procedure shall be conducted using the process specified in this section.

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(a) A ballot substantially in the form set forth below shall be mailed to each of the record owners of property to whom notice of the public hearing was sent in accordance with section 62.08.803.

Parcel No. _____ [city fills in from assessor roll]
Record owner: _____ [city fills in from assessor roll]
Address: _____ [city fills in from assessor roll]

___ Yes, I approve of the proposed property related fee or charge [or increase] of \$ _____ [preprinted] on the parcel identified in this ballot.
___ No, I do not approve of the proposed property related fee or charge [or increase] on this parcel.

Record owner or authorized representative of owner entity

This ballot is to be returned to: City Clerk, City of Sacramento, 915 I Street, Sacramento, CA 95814, sealed in the envelope included, within thirty (30) days, that is **on or before the following date:** _____
(to be filled in).

(b) Each mailing shall include a summary of the ballot procedure specified in this section, with instructions for the completion, sealing and return of the ballot, the date by which the ballot must be returned, and a return envelope preprinted with the return address of the city clerk. The return envelope shall also contain blanks for the owner or authorized representative to fill in the owner's address, a sworn declaration stating that the person executing the ballot and envelope is the record owner of the parcel or the authorized representative of the owner, and a signature. The envelope shall have the following statement printed in the upper right corner: "Post office will not deliver without proper postage affixed."

(c) Returned ballots which are not sealed, or which do not contain the information properly filled in on the envelope, or which are not properly signed, shall be rejected and not counted.

(d) Ballots may be returned by mail or in person at the office of the city clerk. All ballots must be returned on or before 5:00 p.m. on the date specified on the ballot and in the information provided with the ballot. Any ballot received thereafter shall be rejected and not counted.

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(e) The city clerk shall receive and retain unopened all returned ballots, whether such ballots be returned by mail or in person.

(f) Upon verification of the signature and other information, those ballots which have been properly and timely returned and not rejected shall be opened and tabulated by the city clerk. Tabulation shall be in accordance with the following procedures:

(1) The ballots in favor of the property related fee or charge shall be counted and totalled;

(2) The ballots in opposition to the property related fee or charge shall be counted and totalled;

(3) The property related fee or charge, or increase thereof, may be imposed only if the number of ballots in favor of the property related fee or charge or increase thereof exceed the number of ballots in opposition to the property related fee or charge or increase thereof. In the event of a tie, the property related fee or charge or increase thereof may not be imposed. In the case of an increase in an existing property related fee or charge, the failure of those submitting ballots to approve the increase shall have no effect upon the existing fee or charge;

(4) All ballots, including those which were rejected for noncompliance with the requirements of this chapter, shall be retained by the city clerk for a period of three (3) years;

(5) Nothing in this chapter shall preclude the city council from employing a private consultant, or the county registrar of voters, to administer all or part of the ballot process.

(g) At the next regular City Council meeting following the tabulation of the ballots, the city clerk shall inform the City Council of the results of the ballot procedure and shall request that the City Council declare by resolution that the ballot procedure has been completed and the results of the tabulation of ballots.

(h) All ballots shall be deemed to be public records upon completion of the tabulation.

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62.08.805 Imposition of fee or charge.

In the event that the fee or charge has been approved pursuant to the ballot procedure, the City Council may take all necessary actions to impose the fee or charge at the same meeting as is specified in subsection 62.08.804(g) or at another regular City Council meeting.

DATE PASSED FOR PUBLICATION:

DATE ENACTED:

DATE EFFECTIVE:

MAYOR

ATTEST:

CITY CLERK

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