

DATE ISSUED: May 5, 2004 **REPORT NO.** 04-097

ATTENTION: Natural Resources and Culture Committee
Agenda of May 12, 2004

SUBJECT: Revised Draft Council Policy on Funding for Maintenance Assessment
District Formation

REFERENCE: Manager's Report No.03-251, Council Policy on Funding for Maintenance
Assessment District Formation, dated December 3, 2003

SUMMARY

Issue - Should the Natural Resources and Culture Committee adopt the proposed revised Council Policy on Funding for Maintenance Assessment District Formations?

Manager's Recommendation – Adopt the proposed Council Policy as revised.

Fiscal Impact – None with this action. The \$150,000 for the Maintenance Assessment District (MAD) Formation Fund has already been set aside by the City Council during the FY 2003 Budget process within the Environmental Growth Fund, and the Formation Fund will be refunded as new districts are successfully formed.

BACKGROUND

Maintenance Assessment Districts (MADs) are established by the City of San Diego as a means of providing property owners with the opportunity to assess themselves to pay for enhanced improvements, maintenance, services and activities, known as Special Benefits, in their neighborhood or community beyond those generally provided by the City, known as General Benefits. MADs are authorized by several state and local laws. MAD formation is often initiated by a developer during the development of a new community, or by property owners within an already-developed community who desire special benefits.

Through the \$150,000 MAD Formation Fund created by ordinance of the City Council, the City may pay all or a portion of the costs necessary for initial district formation in a developed community, up to \$50,000 for any one MAD. If the MAD is successfully formed, then this amount of the Formation Fund must be repaid in full by the community through the first year's assessments. Because these revenues must be replenished through assessment collections, it is important that any communities receiving these funds have a strong chance of completing district formation, otherwise, the funding may be lost.

Under the proposed Council Policy, four specific criteria must be met before monies from the Formation Fund may be used to form a MAD in a developed community, including: 1) development of a project description (boundaries; improvements to be installed, maintained and funded; preliminary estimate of anticipated assessments to be levied on property owners); 2) determination of the up-front funding needed (not to exceed \$50,000); 3) submittal of a community-initiated petition describing the MAD proposal and costs, and containing valid signatures of at least 30% of the property owners within the proposed MAD boundaries; and 4) evidence of community support by either the planning group or an MAD advisory committee.

DISCUSSION

This proposed Council Policy on Funding for Maintenance Assessment District Formation was considered by the Natural Resources and Culture Committee on December 10, 2003. The Policy was returned to staff to address several concerns, including: 1) clarifying Criteria # 3 and #4 to require noticed public meetings during the formation process; 2) adding a requirement that the Community Planning Committee has reviewed the proposal; 3) clarifying Criteria #5 to show that the petition requirement is based on the percentage of affected parcels, and is not weighted in any way; 4) ensuring that any individuals involved in the formation process who have economic interest in the proposed MAD must disclose that interest; 5) indicating that the MAD Formation Fund may not be used for advocacy in either developing or developed communities; and 6) including Community and Economic Development staff in the formation process.

The attached Council Policy has been revised in a strikeout/underline format to address these changes, which are also described in the following text.

Requiring Noticed Meetings and Informing the Planning Group (Sections A.3, A.4 and B.3)

The proposed Council Policy Section A.3 has been revised to specify that where the proposed MAD boundaries are substantially similar to those of the officially recognized community planning area boundaries, documentation must be submitted showing that the recognized community planning committee *“has held at least two (2) noticed public meetings to discuss the proposed MAD concept, in compliance with that planning committee’s public noticing requirements.”*

Section A.4. has been revised to specify that where the proposed MAD boundaries are *not*

substantially similar to the officially recognized community planning area boundaries, documentation has been submitted showing that a self-designated MAD advisory committee has been formed and “...b) has informed the officially recognized community planning committee for the area where the proposed MAD is located about the proposed MAD formation ...and d) has held at least two (2) meetings open to the public and has: 1) published a notice of the meeting that accurately summarizes the proposed MAD concept and cost in a community newspaper, newsletter, or publication of similar distribution; and 2) posted information about the proposed MAD at a community-accessible public building within the proposed MAD boundary.”

Additionally, the following has been added as a new Criteria (#3) for consideration in the ranking of competing community proposals (Section B.3): “Support from the officially recognized community planning committee for the proposed MAD area.”

Clarifying that Petition Requirements are Non-Weighted (Section A.5)

Section A.5 has been revised to clarify that the required community-initiated petition should contain “valid, *non-weighted signatures* of at least 30% of the property owners within the proposed MAD area boundaries...”

Formation Fund May Not Be Used for Advocacy

As described in the previous Manager’s Report, the formation process requires that the initiating party pay for formation costs, including the independent Assessment Engineer’s Report (to determine the boundaries, improvement and maintenance costs, and parcel assessments); balloting costs; and City staff administrative costs for the formation. The proposed Council Policy, under “Policy - Developed Communities” has now been revised to more clearly state that “*any formation advocacy costs, including fliers and handouts, are not reimbursable costs*” for either developed or developing communities. Additionally, under “Policy – Developing Communities,” the language has been further clarified as follows: “Any efforts to advocate the MAD formation are not considered part of the formation costs, *and must be borne by the developer or the developer’s agent.*”

Disclosure of Economic Interest (Section A.6)

Section A.6 has been added to state that “*Any individual involved in the formation of the proposed MAD with an anticipated direct economic interest in the maintenance and/or management of the proposed MAD must disclose to the City and the community that potential economic interest.*”

Inclusion of Community and Economic Development in Formation Process

Community and Economic Development staff has recently begun management of the five commercial MADs that are managed by a non-profit organization pursuant to San Diego Municipal Code Sections 65.0201 et seq, while Park and Recreation Department MAD staff has

retained management of the 35 residential or mixed-use MADs. The attached version of the Council Policy has thus been revised to reflect this change under “Background” (2nd paragraph); under “Section A, Criteria for Funding” (1st and last paragraphs); and under “Section B, Ranking of Developed Communities Requesting Funding” (1st paragraph). These changes reflect that fact that Park and Recreation and/or Community and Economic Development Department staff will assist any developed community requesting funds in preparing the necessary information. Proposed residential or mixed-use district requests will be reviewed by Park and Recreation Department MAD staff, while commercial district requests will be reviewed by Community and Economic Development Department staff.

In the event that the total amount of money in the MAD Formation Fund is less than the total amount needed to accommodate all formation funding requests received by September 1 of each year, funding requests will be jointly ranked by the Park and Recreation Department and Community and Economic Development Department based on the criteria in Section B.

Additional Minor Changes

Other minor changes have been made to the proposed Council Policy to clarify definitions or meanings, and are also shown in the attached strikeout/underline version of the Council Policy.

ALTERNATIVES

Do not adopt the proposed Council Policy.

Respectfully submitted,

Ellen Oppenheim, Director
Park and Recreation Department

Approved: Bruce A. Herring
Deputy City Manager

OPPENHEIM/AH/AF

Attachment: [Draft Council Policy on Funding for Maintenance Assessment District Formation, revised March 25, 2004](#)