

**DATE ISSUED:** September 1, 2004

**REPORT NO.** 04-193

**ATTENTION:** Honorable Mayor and City Council  
Agenda of September 7, 2004

**SUBJECT:** Council Policy on Funding for Maintenance Assessment District  
Formation

**REFERENCE:** Manager's Reports No.03-251(12/3/03) and No. 04-097 (5/5/04) to the  
Natural Resources and Culture Committee

### **SUMMARY**

Issue - Should the City Council adopt the proposed Council Policy on Funding for Maintenance Assessment District Formation?

Manager's Recommendation – Adopt the proposed Council Policy.

Natural Resources and Culture Committee Recommendation – On May 12, 2004, the Natural Resources and Culture Committee voted to approve this 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 the State of California in the Landscape and Lighting Act of

1972, Article XIID of the California Constitution (Proposition 218), and by the City of San Diego Municipal Code. Although MADs generally maintain various improvements within public rights-of-way and other publicly-owned land, and provide other enhanced services, MADs can also on a more limited basis fund acquisition of parkland or open space and construct and install public improvements.

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. There are currently approximately five MADs in developing communities in various stages of the formation process, and several being considered in already-developed communities.

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 Park and Recreation Department MAD staff administrative costs for the formation. The total cost for MAD formation will vary significantly depending upon the size and complexity of the MAD and proposed services, and the iterative process with the community needed for district formation.

In developing communities, this cost may be funded by a developer or other private contribution. Property owners in already-developed communities, however, must fund MAD formations themselves, which can be a prohibitive expense. To address that issue, the San Diego City Council created a MAD Formation Fund of \$150,000 as part of the Fiscal Year 2003 Budget to assist in financing these start-up costs. This Fund could not be accessed, however, until a Council Policy was developed which set forth the criteria for use of the money.

## **DISCUSSION**

The Council Policy on Funding for MAD Formation was approved by the Natural Resources and Culture Committee following two hearings held on December 10, 2003 and May 12, 2004. The Committee requested the following changes from the initial draft, which have been included in the attached Policy: 1) clarify Criteria # 3 and #4 to require noticed public meetings during the formation process; 2) add a requirement that the Community Planning Committee has reviewed the proposal; 3) clarify Criteria #5 to show that the petition requirement is based on the percentage of affected parcels, and is not weighted in any way; 4) ensure that any individuals involved in the formation process who have economic interest in the proposed MAD must disclose that interest; 5) indicate that the MAD Formation Fund may not be used for advocacy in either developing or developed communities; and 6) include Community and Economic Development staff in the formation process.

The proposed Council Policy is attached to this report, and the major provisions are described below.

### **Developed Communities**

The proposed Council Policy sets a limit of \$50,000 that may be used by the City from the \$150,000 MAD Formation Fund for the formation of any one MAD. If the MAD is successfully formed, the total amount of the Formation Fund used by the City must be repaid in full by the community through the first year's assessments.

Since the Formation Fund was established by the City Council with the anticipation that revenues would 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, a number of specific criteria must be met before monies from the Formation Fund may be used to form a MAD in a developed community. These include:

1. Development of a project description of the proposed MAD boundaries and new improvements to be installed, maintained and funded by the MAD, and a preliminary estimate (developed in conjunction with MAD staff) of anticipated assessments to be levied on property owners.
2. Determination of the up-front funding needed from the Formation Fund to pay for the costs (may not exceed \$50,000).
3. Where the proposed MAD boundaries are substantially similar to those of the officially recognized community planning area boundaries , documentation showing that the planning committee has held at least two (2) noticed public meetings to discuss the proposed MAD concept, supports the proposed MAD concept, is aware of the estimated formation costs and requirement to repay the Formation Fund, and has formed a MAD advisory subcommittee;
4. Where the proposed MAD boundaries are not substantially similar to the officially recognized community planning area boundaries, documentation showing that a self-designated MAD advisory committee has been formed, and that this committee supports the proposed MAD concept, has informed the planning committee for the proposed MAD area, is aware of the estimated formation costs and the requirement to repay the Formation Fund, and had held at least two publicly-noticed meetings on the proposal.
5. 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;
6. Disclosure of any economic interest in the maintenance or management of the proposed MAD is required by any individual involved in the formation process.

Staff from either the Park and Recreation Department Open Space Division MAD Section (for residential or mixed use MADs), or from the Community and Economic Development Department Economic Development Division (for commercial MADs managed by non-profits)

will assist any developed community requesting funds in developing the necessary information. This information must be submitted to the appropriate Deputy Director by September 1 in order to form the district for the following fiscal year.

In the event that the total amount of money in the Formation Fund is less than the total amount needed to accommodate all formation funding requests received on September 1 of each year, funding requests will be ranked based on the following criteria:

1. Amount of matching funds the community is able to provide to partially offset formation costs, thus either lowering the amount needed from the Formation Fund, or providing additional funding to complete the formation process if the maximum Formation Fund amount of \$50,000 is insufficient.
2. Percentage of additional valid property owner petition signatures the developed community is able to provide over and above the minimum required 30%.
3. Support from the community planning committee for the proposed MAD area.
4. Location of the community relative to Council District boundaries. In order to permit equal MAD formation opportunities throughout the City, only one MAD per Council District will be considered for use of Formation Fund monies in any one year, unless there are no other eligible proposals in other Council Districts.

### Developing Communities

To establish a new MAD in a developing community, interested developers may deposit funds with the City to pay for the costs of formation, including the independent Assessment Engineer's Report, balloting costs, and City staff administrative costs. Any efforts to advocate the MAD formation are not considered part of the formation cost, and must be borne by the developer. Developers must submit a project description as described above, and work closely with city staff in providing necessary information.

In general, the total cost of formation will vary depending on size, complexity, and scope. The developer would submit funds prior to the initiation of a new MAD formation study, with an expectation of full cost recovery for the City. The City Auditor and Comptroller, upon direction of the City Manager, would be authorized to create special interest-bearing funds for the purpose of forming a new MAD. These funds would be identified in the annual Appropriation Ordinance.

If a surplus exists in the developer deposit fund for MAD formation at the completion of the ballot process, the funds would be returned to the developer. If additional funds are required to complete the formation process, staff would calculate the cost of the remaining services and provide a bill to the developer.

Similarly to developed communities, upon a successful formation effort, the first year's

assessments may be used to pay back the developer for formation costs associated with the Assessment Engineer's Report, balloting process, and City oversight costs. Any formation advocacy costs, including fliers and handouts, would not be part of the reimbursable costs.

**ALTERNATIVES**

Do not adopt the proposed Council Policy.

Respectfully submitted,

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Ellen Oppenheim, Director  
Park and Recreation Department

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Approved: Bruce A. Herring  
Deputy City Manager

OPPENHEIM/AH/AF

Attachment: [Draft Council Policy on Funding for Maintenance Assessment District Formation](#)