

July 13, 1998

REPORT TO THE COMMITTEE ON PUBLIC
SAFETY AND NEIGHBORHOOD SERVICES

THE IMPACT OF AMENDMENTS TO COUNCIL POLICY 200-18
(MID-BLOCK STREET LIGHT POLICY FOR DEVELOPED AREAS)
ON MAINTENANCE ASSESSMENT DISTRICTS

INTRODUCTION

The Public Safety and Neighborhood Services Committee [PS&NS] proposed amendments to City Council Policy 200-18 (Mid-Block Street Light Policy for Developed Areas) [Policy] that would allow for the installation of mid-block street lighting spaced no greater than 150 feet apart in high crime residential areas, commercial areas, and within a quarter mile of all transit stops. The current Policy, which sets a general City-wide standard, provides that street lights shall be spaced between intersections no greater than 300 feet apart. PS&NS directed the City Attorney's office to review the proposed amendments to determine whether they would have any legal effect on the City's existing lighting maintenance assessment districts [Districts]. This Report addresses the impact that such amendments would have on assessments for *enhanced* lighting in existing Districts, which exceed the general City-wide standard.

DESCRIPTION

The Landscaping and Lighting District Act of 1972 (California Government Code sections 22500-22679) [1972 Act] authorizes a public agency to form a maintenance assessment district, and to levy and collect assessments against any real property within the district that receives benefits from the improvements and services being provided within the district. Public lighting facilities are among those services for which assessments may be levied pursuant to the 1972 Act. Cal. Sts. & High. Code 22525(c).

On November 6, 1996, the California voters approved Proposition 218, which amended the California Constitution by in part adding article XIID. Article XIID imposed new requirements for the imposition of assessments, fees and charges. Article XIID, section 1 provides in part, that, "[n]otwithstanding any other provision of law, the provisions of [article XIID] shall apply to all assessments, fees and charges whether imposed pursuant to state statute or local government charter authority." The provisions of article XIID therefore apply to any existing maintenance assessment district, not specifically exempted, including any assessment district formed pursuant to the 1972 Act, and to all future assessment districts established by the City.

Pursuant to article XIID, a public agency intending to levy an assessment must identify each parcel within the proposed assessment district that receives a special benefit from public improvements or services that will be assessed for the benefits received. Cal. Const. art. XIID, 4(a). "Special benefit" is defined in section 2 of article XIID as "a particular and distinct benefit over and above general benefits conferred on real property located in the district or to the public at large. General enhancement of property value does not constitute 'special benefit.'" Thus, in order for the City to levy assessments against a property within an assessment district, the City must be able to identify the specific special benefits that the parcel would receive from the improvements and property-related services.

The City currently has several Districts for which enhanced street lighting is provided. These enhanced improvements and services are generally in the form of decorative lighting fixtures and mid-block lighting above the general City-wide standard of lighting spaced between intersections every 300 feet. Properties within these Districts that receive special benefits from such enhanced street lighting are assessed accordingly.

As noted above, the proposed amendments to the Policy would allow for the installation of mid-block street lighting spaced no greater than 150 feet apart in high crime residential areas, commercial areas, and within a quarter mile of all transit stops. To the extent that a District currently has enhanced street lighting spaced no greater than 150 feet apart, the policy will have a direct impact on the ability of the City to continue to levy assessments against the properties located in that District for such lighting. Such lighting would be comparable to the general City-wide standard and therefore would no longer be an enhanced service providing special benefit to the properties in the District. The City therefore could not continue to levy assessments for the mid-block street lighting in these Districts.

If, however, the lighting in a District is decorative, the properties would continue to receive a special benefit from such an enhanced improvement. Assessments therefore could continue to be levied for the decorative lighting and the maintenance thereof. Similarly, if the lighting in a District is spaced less than 150 feet apart (i.e., less than the proposed new City standard), the properties would continue to receive a special benefit and assessments could be levied for such benefits. The amount of such benefit, and therefore the amount of the assessment, must be determined by an engineer and cannot be made based on the previous assessment.

CONCLUSION

In summary, the Policy may impact existing Districts which provide enhanced lighting services in the form of mid-block lighting spaced no greater than 150 feet apart. If the Policy is adopted, such improvements and services would no longer be enhanced improvements and services which provide a special benefit to the properties in the District. Rather, they would be general benefits for which assessments may not be levied. The City, however, could continue to levy assessments for any improvements or services which are greater than the City-wide standard (i.e., lighting spaced less than 150 feet apart and decorative lighting).

In order to determine the impact of the Policy on the City's existing Districts, a survey of the existing lighting in each of the Districts for which enhanced lighting improvements and services are provided and assessments levied should be conducted to determine whether the lighting will continue to provide a special benefit. In the event the Policy is implemented and it is determined that the lighting within a District no longer provides enhanced services or provides a

reduced special benefit to properties within the District, the assessments for such properties must be adjusted accordingly.

Respectfully submitted,

CASEY GWINN
City Attorney

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