

**CITY OF RIALTO****AGENDA REPORT**

For City Council Meeting of November 1, 2005

TO:	Honorable Mayor and Council Members
APPROVAL:	Henry T. Garcia, City Administrator
FROM:	June Overholt, Chief Financial Officer <i>JK</i>
SUBJECT:	Approve a Fiscal Policy for New Development and Annexations
DATE:	October 11, 2005

**BACKGROUND:**

As the City of Rialto grows, the need for City services also increases. To address this growth, a new strategic approach to address the fiscal impact of annexations or new development in the City is needed.

Traditionally, industrial and commercial development contributes adequately for their impact on City services through sales tax generated, business licenses and property tax revenues. Housing developments, however, have a greater demand for City services (law enforcement, fire and paramedic services) than industrial and commercial developments. The City of Rialto is a bedroom community, which means that sales tax revenue tends to leak out of Rialto into neighboring communities that have more retail options. The other major revenue source the City relies on to pay for services is property taxes, which in Rialto represents only 8% of General Fund revenues. Only \$.14 on the dollar of property tax paid comes to the City to pay for vital services.

Since 1998, the population has grown by over 12,000. In the midst of this growth, the City faced a financial crisis requiring the lay off or elimination of approximately 33 positions. This resulted in reduced police services, reduced maintenance staff and the periodic closure of Fire Station 204. Reality was that even though staffing levels dropped, demands for service continued to increase.

To illustrate the disparity that exists in the city between population growth and number of City employees, see the graph below.

Year	1998	1999	2000	2003	2004	2006
# of employees	396	413	380	364	392	409
Population	88,000	89,700	91,600	97,060	98,100	100,000
# of employees per 1000 population	4.50	4.60	4.10	3.75	3.97	4.09

In June 2003, with the passing of the Utility Users Tax (UUT), the City received a new revenue source that allowed for an increase in staffing levels to address the demands for service. Even with the UUT, staffing levels have not returned to the levels existing before the financial crisis in 1999/2000.

Growth from new development and annexations is inevitable. The City must proactively manage growth in a fiscally responsible manner. To do this, every proposal for development and/or annexation should be evaluated individually for fiscal impact to the City. The cost of capital improvements and general fund services must be compared to the proposed area's revenue, which come in the form of Development Impact Fees, utility users tax, property tax, sales tax, and business license fees. In the event that the analysis shows a deficit, the City must evaluate and consider whether to absorb these costs (deficit) or use alternate financing methods.

Because Rialto is strategically positioned for economic development and housing development, staff is recommending that Council adopt a policy that provides broad guidelines for addressing the fiscal needs of the City to meet the growing service level demands of each new development or annexation.

#### **ANALYSIS/DISCUSSION:**

It is the City's goal to support development and annexations that are consistent with the overall goals and policies of the General Plan and do not adversely impact the City's fiscal viability, environmental resources, infrastructure and services, and quality of life. The policy seeks to acknowledge that new development or annexations should provide sufficient revenues to pay for the increased cost of services and infrastructure. As such, staff will utilize the policy for evaluating the fiscal impact of new development and annexations and the funding options available to cover the increased costs.

Funding for the costs identified in the fiscal impact would be negotiated with the involved parties, developers or the County. Financing options for the developers would include but would not be limited to Community Facility Districts (CFD) or 1915 Act Assessment Districts (AD). If applicable, staff will evaluate the viability of a city wide CFD for all new housing development within as yet to be defined parameters. Final recommendations would be made to Council for adoption where required by law or where negotiations did not provide a solution to meet any fiscal impact deficits.

The proposed policy has two main parts. The first part mandates that a complete fiscal analysis should be completed to identify the fiscal impacts for every new development and/or annexation to the City. The structure of any alternate financing methods would be based on information identified in the analysis.

The second part addresses the specific CFD goals and policies required by State law. Since the structure of every district will be specific to the type and amount of development within the district, it is important to have minimum standards included in the CFD and AD financing policy. Some of the minimum standards included in the proposed policy relate to the following:

- Process of formation;

- Type of facilities to be financed;
- Type of services to be financed;
- Value to lien requirements;
- Special tax inflators and escalators;
- Special tax coverage requirements;
- Calculation of administration expenses;
- Prepayment clauses and formulas;
- Direct and overlapping debt allowable level (Percentage of Assessed Value);
- Fiscal impact study requirements.

In the State of California, public agencies often utilize Community Facility Districts, "Mello-Roos" (CFDs) and 1915 Act Assessment Districts (ADs) to finance certain public improvements and public services. The City of Rialto has used both of these types of districts in the past to finance public improvements and services, i.e. CFD's 87-1, 87-2 and AD 1-87. CFD 87-2, which is not currently being levied in lieu of the Utility Users Tax, was established to offset the impact of the cost of police and fire services needed within the boundaries of the district.

CFDs will play a very important role in the future to keep all new development balanced in terms of costs of City services. Legislation has been adopted since the formation of the City's current districts that requires a formal CFD financing policy prior to the formation of any new districts. California Government code section 53312.7 reads as follows:

*"On and after January 1, 1994, a local agency may initiate proceedings to establish a district pursuant to the [Mello-Roos Community Facilities Act of 1982] only if it has first considered and adopted local goals and policies concerning the use of this chapter.*

With the assistance of Fulbright and Jaworski L.L.P., staff has drafted a policy that addresses the issues described in this report. The policy outlines minimum standards that every district must possess at formation. (Exhibit A)

The conceptual framework of the need for this policy was presented to the Economic Development Committee on September 28th, 2005. The committee directed staff to prepare a policy for Council adoption as quickly as possible in light of specific requests that have been made to the City for annexations and establishing a CFD.

#### **ENVIRONMENTAL IMPACT:**

None

**LEGAL REVIEW:**

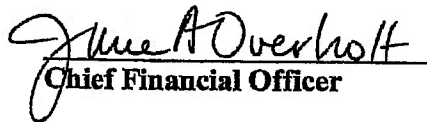
The staff report and policy have been reviewed and approved by the City Attorney.

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City Attorney

**FINANCIAL IMPACT:**

There is no measurable fiscal impact involved in the adoption of the fiscal impact policy.

  
Chief Financial Officer

**RECOMMENDATION:**

Request City Council to adopt the Fiscal Policy for New Development and Annexations, which includes the Community Facilities District (Mello-Roos) and Assessment District (1915 Act) goals and policies.

**Attachments:**

- Fiscal Policy for new Development and Annexations

Report prepared by George Harris, Senior Administrative Analyst

Exhibit A

# City of Rialto



## Fiscal Policy for New Development and Annexations

## **FISCAL POLICY FOR NEW DEVELOPMENT AND ANNEXATIONS**

The City of Rialto (the "City") has established the following policies to address the fiscal viability of new development and annexations within the City.

It is the City's goal to support development and annexations that are consistent with the overall goals and policies of the General Plan and do not adversely impact the City's fiscal viability, environmental resources, infrastructure and services, and quality of life.

The City staff, including Development Services and Finance staff, will collaborate to adhere to and implement these goals and policies. Recommendations resulting from implementing these goals and policies will be presented to the appropriate committees and Council through a team approach.

Any and all exceptions to these policies are subject to the review by the Economic Development Committee and approval by City Council.

### **SECTION 1 – ANNEXATION GOALS AND POLICIES**

- I. Ensure that City interests are protected in all annexation processes with LAFCO.
- II. Prepare or request any reports, information or feasibility studies reasonably necessary in evaluating annexation requests.
- III. Coordinate with the County of San Bernardino, landowners, and pertinent service agencies to assure that development within the sphere of influence (SOI) complements, does not adversely compete with, and assures the fiscal viability of the City of Rialto.
- IV. Ensure that annexations to the City of Rialto are consistent with the overall goals and policies of the General Plan and do not adversely impact the City's fiscal viability, environmental resources, infrastructure, services, and quality of life.
- V. Require that existing and proposed development within proposed annexations areas generate sufficient revenues, to compensate the City for its fair-share of community service costs.
- VI. Require that infrastructure and service improvements for proposed annexation areas do not create an undue burden on existing City infrastructure and services.
- VII. Encourage that, if an area annexes to the City, a Community Facilities District (CFD) or other financing option be established for the provision and maintenance of streets, and other public services.
- VIII. Specifically, require that all annexation areas include the costs of any landscaped arterial and median installation into the fiscal impact analysis. Also, that all new development install any and all arterial and open space landscaping. Require that both annexed areas and new development annex into Landscaping and Lighting Maintenance District No. 2, or any other appropriate financing district.



## **SECTION 2 – NEW DEVELOPMENT GOALS AND POLICIES**

For the purposes of this policy new development is defined as development of vacant or raw land that exists within the current boundaries of the City of Rialto.

- I. Prepare or request any reports, information or feasibility studies reasonably necessary in evaluating the development requests.
- II. Ensure that new development in the City of Rialto are consistent with the overall goals and policies of the General Plan and do not adversely impact the City's fiscal viability, environmental resources, infrastructure, services, and quality of life.
- III. Require proposed development to generate sufficient revenues to compensate the City for its fair-share of community service costs.
- IV. Require that infrastructure needs for proposed development meet the City standards prior to approval.
- V. Encourage that a Community Facilities District (CFD) or other financing option be established for the provision and maintenance of streets, and other public services.
- VI. Specifically, require that all new development plans include the costs of any landscaped arterial and median installation into the fiscal impact analysis. Also, that all new development install any and all arterial and open space landscaping. Require that new development annex into Landscaping and Lighting Maintenance District No. 2, or any other appropriate financing district.

## **SECTION 3 – CFD & OTHER FINANCING**

### **COMPREHENSIVE GOALS AND POLICIES**

#### **I. INTRODUCTION**

The City of Rialto (the "City") has developed the following Goals and Policies for the creation of community facilities districts for services and public facilities, and; where applicable, debt financing as guidelines to assist concerned parties in following the City's approach to Community Facilities Districts, Assessment Districts and debt financing. It is the City's goal to support projects that address a public need and provide a public benefit. Proposed projects requesting Community Facility District or Assessment District debt financing will be evaluated to determine if such financing is financially viable and in the best interest of the City and current and future City and project residents. These Goals and Policies are designed to comply with Section 53312.7 of the Government Code.

The City will consider applications requesting the formation of community facilities districts and assessment districts and, if applicable, the issuance of bonds to finance eligible public facilities pursuant to the Mello-Roos Community Facilities Act of 1982, as amended. The City may initiate services districts by direction of the City Council. The City reserves the right to request any reports, information or studies reasonably necessary in evaluating these applications.

All City and any consultant costs incurred in evaluating applications requesting the establishment of Districts will be paid by the applicant(s) by advance deposit increments or as otherwise agreed in writing by the City. The City shall not incur any non-reimbursable expense for processing such applications. Expenses not chargeable to the district shall be borne by the applicant.

## **II. DEFINITIONS**

*"1915 Act"* means the Improvement Bond Act of 1915, as amended.

*"AD"* means an Assessment District formed under the 1913 Act.

*"Bonds"* means bonds authorized and issued under the Mello-Roos Community Facilities Act of 1982 or the Improvement Bond Act of 1915.

*"City"* means the City of Rialto.

*"CFD"* means a Community Facilities District formed under the Act.

*"CFD Act"* means the Mello-Roos Community Facilities Act of 1982, as amended.

*"Public Facilities"* means improvements authorized to be constructed or acquired under the Mello-Roos Act including, but not limited to, fees for capital facilities imposed by public agencies as a condition to approval of the development encompassed by the district or as a condition to service the district.

*"Public Services"* means public services authorized to be provided by a District pursuant to the Act.

*"Value"* or *"Fair Market Value"* means the amount of cash or its equivalent which property would bring if exposed for sale in the open market under conditions in which neither buyer nor seller could take advantage of a difficulty of the other and both have knowledge of all of the uses and purposes to which the property is adapted and for which it is capable of being used and of the enforceable restrictions upon uses and purposes.

## **III. ELIGIBLE PUBLIC FACILITIES, PRIORITIES AND PUBLIC SERVICES**

The improvements eligible to be financed must be owned by a public agency or public utility, and must have a useful life of at least five (5) years. In any event, no bonds shall be issued with a maturity date greater than the useful life of the facilities or improvements being financed. The development proposed within the district must be consistent with the City's general plan, if any, and must have received any required zoning or specific plan approvals.

The list of public facilities, including fees relating thereto, eligible to be financed by a CFD or AD include, but are not limited to, the following:



- Streets, highways and bridges
- Street lighting
- Traffic signals and safety lighting
- Parks
- Governmental facilities
- Sanitary sewer facilities
- Storm drain facilities
- Potable and reclaimed water facilities
- Flood control facilities
- Libraries
- Public utilities
- Law enforcement and fire protection facilities
- Recreation facilities, including golf courses
- Biological mitigation measures involving land acquisition, dedicating and revegetation

In general, none of these types of facilities will have priority over the others; however, the City has final determination as to any facility's eligibility for financing, as well as the prioritization of facilities to be included within a financing district. Furthermore, when establishing a CFD the City may condition any facility's eligibility for financing on the allocation of an annual amount of special taxes for public services as determined by the City including, but not limited to law enforcement, fire and paramedics and/or the annexation of the proposed District requesting financing into an operation and maintenance district that the City may have established for such services.

#### **IV. CREDIT QUALITY REQUIRED OF BOND ISSUES**

In evaluating a proposed Bond issuance, the City may require that the City's financial advisor, if any, has reviewed and approved the proposed issuance of the Bonds.

#### **V. DISCLOSURE REQUIREMENTS**

A. Disclosure Requirement for Developers. The applicant will be required to demonstrate, to the satisfaction of the City, that there will be full disclosure of the Mello-Roos special taxes and any other special tax, assessment, overlapping special taxes or assessment of other districts, or other liens on individual parcels to existing and future property owners, and to prospective purchasers of property including interim purchasers and sales to merchant builders (Section 53341.5 of the Government Code). In addition to all requirements of law, the City shall require the applicant to provide disclosure of such information as the City deems appropriate to the purchasers of property within the District, with respect to the existence of the District, maximum and/or backup special taxes to be levied within the District, facilities to be constructed, services to be provided for which special taxes will be levied, the foreclosure process and the terms and conditions of Bond issues on behalf of the District. Such disclosure shall include homebuyer notifications requiring signature prior to home purchases, as well as methods to notify subsequent home purchasers.

B. Compliance with Federal Securities Laws. The City shall use all reasonable means to ensure compliance with applicable federal securities laws in connection with the issuance of debt and the provision of annual information regarding any District established by the City with respect to which Bonds have been issued, including requiring any developer in a District who is material to the Bond issue to transmit appropriate information to the City or its designee for disclosure to Bond investors.

## **VI. EQUITY OF TAX ALLOCATION FORMULAS**

The rate and method of apportionment of the special tax and method of spread of assessment must be both reasonable and equitable in apportioning the costs of the public facilities to be financed and/or services to be provided to each of the parcels within the boundaries of the proposed District.

The rate and method of apportionment of the special tax and method of spread of assessment is to provide for the administrative expenses of the proposed District, including, but not limited to, those expenses necessary for the enrollment and collection of the special tax or assessment and Bond administration.

All property not otherwise exempted by the CFD Act from taxation or 1915 Act from assessment shall be subject to the levy of special tax or assessment. The rate and method of apportionment or method of spread of assessment may provide for exemptions to be extended to parcels that are to be dedicated at a future date to public entities, held by a home owner's association, or designated open space.

The annual special tax or assessment levy on each residential parcel developed to its final land use shall be approximately equal each year, except that a variation for administrative expenses will be allowed. The City will allow an annual escalation factor on parcels within a CFD.

The maximum annual special tax or special assessment, together with ad valorem property taxes, special assessments or taxes for an overlapping financing district, or any other charges, taxes, or fees payable from and secured by the property, including potential charges, taxes, or fees relating to authorized but unissued debt of public entities other than the City, in relation to the expected assessed value of each parcel upon completion of the private improvements to the parcel is of great importance to the City in evaluating the proposed financing.

The objective of the City is to limit the "overlapping" debt burden on any parcel to two percent (2.0%) of the expected assessed value of the parcel upon completion of the improvements. In evaluating whether this objective can be met, the City will consider the aggregate public service needs for the proposed project. It will consider what public improvements the applicant is proposing to be financed in relation to these aggregate needs and decide what is an appropriate amount to extend in public financing to the identified public improvements, as well as the appropriate level of special taxes to be levied for services.

This evaluation will be based on information obtained from other affected taxing entities that have jurisdiction to impose a levy on the proposed project.

The total maximum annual special taxes that can be collected from taxable property in a District, taking into account any potential changes in land use or development density or rate, and less all projected administrative expenses, must be equal to at least one hundred ten percent (110%) of the gross annual debt service on any Bonds issued by or on behalf of the District in each year that said Bonds will remain outstanding, plus the amount of any special taxes for services.

The rate and method of apportionment of any CFD special tax shall include a provision or a backup tax to protect against any changes in development that would result in insufficient special tax revenues to meet the debt service requirements of the district. Such backup tax shall be structured in such a manner that it shall not violate any provisions of the Mello-Roos Act regarding cross-collateralization limitations for residential properties.

The projected annual special tax or assessment revenues shall include reasonable administrative expenses and other direct costs to the District. For the purposes of estimating the annual District administration costs and expenses, the Cost Allocation Plan shall be used. If bonds are sold and special tax payments or assessments are not immediately required (capitalized interest), a reasonable amount of projected actual administrative costs and expenses will be funded from the proceeds of the bonds or from the developer.

A formula to provide for the prepayment of the special tax may be provided; however, neither the City nor the Community Facilities District shall be obligated to pay for the cost of determining the prepayment amount which is to be paid by the applicant. The method of prepayment for a 1915 Act must adhere to the provisions set forth in the 1915 Act, §8766-8766.5 of the California Streets and Highways Code.

Any proposed subsequent change in land use after formation of the district that would result in a decrease in special tax revenue for the property shall require the property owner to deposit with the City at the time of the land use change, the present value amount to cover the differential between the original authorized tax and the proposed projected tax, plus any required penalties or bond redemption premium. Any proposed subsequent change in land use after the formation of an assessment district must adhere to the 1915 Act formal assessment apportionment criteria set forth in the 1915 Act.

## **VII. APPRAISALS**

A. Definition of Appraisal. An appraisal is a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information.

B. Standards of Appraisal. The format and level of documentation for an appraisal depend on the complexity of the appraisal problem. A detailed appraisal shall be prepared

for complex appraisal problems. A detailed appraisal shall reflect nationally recognized appraisal standards, including, to the extent appropriate, the Uniform Appraisal Standards for Federal Land Acquisition. An appraisal must contain sufficient documentation, including valuation data and the appraiser's analysis of the data, to support his or her opinion of value. At a minimum, the appraisal shall contain the following items:

- (1) The purpose and/or the function of the appraisal, a definition of the estate being appraised, and a statement of the assumptions and limiting conditions affecting the appraisal.
- (2) An adequate description of the physical characteristics of the property being appraised, location, zoning, present use, an analysis of the highest and best use.
- (3) All relevant and reliable approaches to value consistent with commonly accepted professional appraisal practices. If a discounted cash flow analysis is used, it should be supported with at least one other valuation method such as a market approach using sales that are at the same stage of land development. If more than one approach is utilized, there shall be an analysis and reconciliation of approaches to value that are sufficient to support the appraiser's opinion of value.
- (4) A description of comparable sales, including a description of all relevant physical, legal, and economic factors such as parties to the transaction, source, and method of financing, and verification by a party involved in the transaction.
- (5) A statement of the value of the real property.
- (6) The effective date of valuation, date of appraisal, signature, and certification of the appraiser.
- (7) Conflict of Interest. No appraiser or review appraiser shall have any interest direct or indirect in the real property being appraised for the Agency that would in any way conflict with the preparation or review of the appraisal. Compensation for making an appraisal shall not be based on the amount of the valuation.
  - (a) Community Facilities District Appraisal Premises. The valuation of proposed community facilities districts should be based on three premises:
    - (i) Raw Land Value (Premise No. 1). The total land within the project is valued "as is"
    - (ii) With any existing infrastructure.
    - (iii) Without proposed infrastructure being financed.



- (iv) With existing parcel configuration.
- (v) Considering planned densities allowed by the specific plan of the project.

This is a typical type of land valuation.

- (b) Project Build Out Value (Premise No. 2). The total land within the project is valued under projected conditions:
  - (i) With proposed infrastructure being financed completely.
  - (ii) At the planned densities allowed by the specific plan.
  - (iii) Land development is at the stage of being marketed to merchant builders or tentative tract maps ready to be filed.

This is a projected value based on project plans predicated on market conditions continuing as projected.

- (c) Bulk Land Value (Premise No. 3). The total land within the project is valued under projected conditions:
  - (i) With proposed infrastructure being financed completely.
  - (ii) With existing parcel configuration.
  - (iii) Considering planned densities allowed by the specific plan of the project.

This premise should consider a discounted or "quick sale" valuation considering time, costs, and the possibility of a per unit value based on the total size of the project.

### **SECTION 3 - EXCEPTIONS TO THESE POLICIES**

The City may find in limited and exceptional instances that a waiver to any of the above stated policies is reasonable given identified special City benefits to be derived from such waiver. Such waivers are granted only by action of the City Council based upon specific public purpose and/or health and safety findings.