

Landscaping and Lighting District Assessment Practices in the City of Folsom

Issue

Does the City of Folsom properly lower property assessments in a particular assessment district when surplus accumulations occur? Have fraudulent projects been created to conceal excess accumulation of property assessment funds?

Reason for the Investigation

A complaint was received alleging that the City of Folsom failed to properly reduce the assessments paid by property owners in the Steeplechase Landscaping and Lighting District, and instead used the funds to create an illegal surplus. It was further alleged that fraudulent projects were included in the City's Engineering Report to conceal the illegal accumulation of funds from the over assessment of parcels.

Method of Investigation

Members of the Grand Jury:

- Reviewed the 2003-2004 budget for recommended assessment per parcel for several districts, including Steeplechase, The Residence, and Silverbrook Landscaping and Lighting Districts
- Viewed a tape of the Folsom City Council meeting of April 4, 2003, when the subject of a possible over assessment was brought to the attention of the Folsom Council members
- Reviewed California Streets and Highways Code, specifically Sections 22500-22509, which may be cited as the "Landscaping and Lighting Act of 1972;" Section 22526, defining incidental expenses; Section 22556, levying a new assessment; Sections 22565-22574, Engineer report requirements; and Sections 22655-22663, collection and distribution of monies collected by tax assessment
- Reviewed California Constitution Article 13D (Assessment and Property-Related Fee Reform), implementing Proposition 218 requiring a vote of approval by the property owners before a new fee or charge can be imposed or increased. Article 13D became effective on July 1, 1997
- Reviewed an independent auditor's review of specific district assessments contained in the engineer's report prepared by Shilts Consultants, Inc., Engineering, the firm hired by the City of Folsom

- Interviewed the Folsom Neighborhood Services Director, the Folsom Landscaping and Lighting Districts Manager, and the Folsom Assistant City Attorney.

Background and Facts

As of March 1, 2005, there were 24 Landscaping and Lighting (L&L) Districts in the City of Folsom. The purpose of landscaping and lighting districts is to maintain and service the public improvements within each district. Such improvements generally consist of landscape corridors and median islands as well as street lights.

Each L&L District is formed in accordance with the 1972 Landscaping and Lighting District Act. When a district is formed, an annual per parcel assessment is established which is collected by the County (via a resident's tax bill) and remitted back to the City of Folsom to administer the district's improvements. The annual assessment is created and established to cover operating and maintenance costs of the public improvements and is adopted each year by the City Council.

During the meeting with Folsom officials, the reason for specific expenditures and the methods of handling funding excesses were discussed. Folsom officials explained that each district has certain landscaping issues--plants, dividers, fences or walls that require repair and replacement at different times. Districts are also responsible for graffiti abatement, damage repair due to accidents or vandalism, and other such costs. If the budget allows, entire sections of walls and fences are repaired or replaced as necessary. Projects are determined after an on-site inspection of each district.

Grand Jury members reviewed maps showing where each Folsom L&L district is located and why a type of fencing works in some areas and why block walls are needed in others. In the Steeplechase Landscaping and Lighting District, a portion of fence was recently replaced. This project was noted in the budget and billing portion of the engineer's report. All funds were accounted for after the project was completed.

From the Shilt's Engineering Report, Grand Jury members reviewed line items in the budget for several districts and discussed the differences in funding found for what appeared to be similar items, or when one district was smaller than another. The assessments were the same for both. Although each district pays equally for the cost of an engineering report, it does not pay equally for staff time. Larger districts require more time to inspect, review and to determine an appropriate assessment for district projects. In each of these cases Folsom officials provided facts and explanations that justified these practices.

Folsom officials stated that assessments for projects are made after an on-site inspection to determine the needs of each district for the coming year. The cost of projects that may take more than one year to complete are pro-rated and funds may be accumulated to pay for such projects in the succeeding year. There was no evidence of the creation of fraudulent projects to conceal property over-assessments or any co-mingling of funds between districts.

Using the Silverbrook Lighting and Landscape District as an example of a district with surplus funds, Folsom officials addressed how assessments are lowered if there is a surplus. Silverbrook was intended to be residential, but instead is mostly commercial. In addition, light rail is coming to the area and extensive additional landscaping changes are anticipated. The Silverbrook account has a balance of \$92,442. Of that amount, \$40,000 is retained as the amount needed in the budget for this year's projects. The remaining \$52,442 is returned to the affected property owners as a credit on the County tax bill, or as a zero assessment for the coming year.

Finding and Recommendation

Finding 1. The City of Folsom is in compliance with existing laws when the L&L District uses its assessment authority. When a surplus occurs, credits are applied to the tax rolls generated from the County Auditor. The credit is not specifically noted on the tax bill, and as such, is not necessarily clear to property owners.

Recommendation 1. The City of Folsom should explain to property owners how assessments are made and why credits are given rather than lowering assessments. The L&L District and the City Council should continue their efforts to keep property owners informed about the assessment and billing process.

Response Requirements

Penal Code sections 933 and 933.05 require that specific responses to both the finding and recommendation contained in this report be submitted to the Presiding Judge of the Sacramento Superior Court by September 30, 2005 from:

- **Folsom City Council, Finding 1 and Recommendation 1.**