

CITY OF HAYWARD
AGENDA REPORT

AGENDA DATE 03/08/05

AGENDA ITEM 4

WORK SESSION ITEM _____

TO: Mayor and City Council

FROM: Director of Community and Economic Development

SUBJECT: Maintenance District No. 2 - Eden Shores Buffer Zone and Pre-Treatment Pond - Preliminarily Approve the Engineer's Report, Adopt a Resolution of Intention and Set April 26, 2005, as the Public Hearing Date

RECOMMENDATION:

It is recommended that the City Council adopt the attached resolution pertaining to Maintenance District No. 2.

DISCUSSION:

Maintenance District No. 2 ("District") was formed to fund the operation and maintenance of storm water facilities and the water buffer zone bordering the residential portion of Eden Shores. The District includes three residential tracts in Eden Shores, totaling 525 homes. The developer has been providing a notice and information to all home purchasers about the maintenance district and their obligation for annual assessments.

This District was formed in June 2003, but Standard Pacific is responsible to fund maintenance of all facilities until accepted by either the City or the Alameda County Flood Control and Water Conservation District ("ACFC"). The funds being collected from the property owners within the District are being used to establish capital replacement funds which would be utilized to repair or replace sections of fencing, pumps or structures in the future.

The pre-treatment pond will be operated and maintained by the ACFC, who will assume responsibility in the fall of this year. The ACFC, based on their experience with similar storm drain pre-treatment ponds, provides budget amounts to be included in the Engineer's Report.

Construction of the water buffer zone is substantially complete, but it has not been accepted by the City. Per the subdivision approvals, the developer is responsible for operation and maintenance of the water buffer zoned for at least the first 2 years once accepted by the City. Acceptance, and start of the developers 2 year maintenance period, is anticipated within FY 2005-06.

Public meetings will be held March 23 and April 14, 2005 during which interested residents may discuss the current fees and services. The base assessment rate is \$667.44 per parcel and the current collection rate, \$155.00 per parcel, provides sufficient funds for the proposed FY 2005-06 budget. A public hearing before the City Council is scheduled for April 26, 2005 at which property owners can also raise concerns about assessments.

Prepared by:



Andrew S. Gaber, P.E.
Development Review Engineer

Recommended by:



Sylvia Ehrental
Director of Community and Economic Development

Approved by:



Jesús Armas, City Manager

Exhibits:

- Engineer's Report
- Draft Resolution

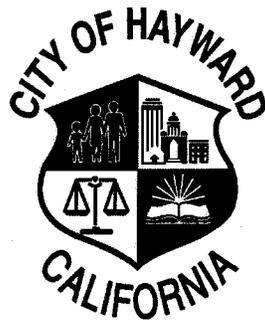
2/15/05

PRELIMINARY ENGINEER'S REPORT

CITY OF HAYWARD

**MAINTENANCE DISTRICT No. 2
(Eden Shores)**

Fiscal Year 2005-06



March 8, 2005

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CITY COUNCIL MEMBERS AND CITY STAFF

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Mayor

Kevin Dowling
Council Member

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Michael O'Toole
City Attorney

Angelina Reyes
City Clerk

Dan Nagle
Landscape Manager

Andrew S. Gaber
Engineer of Work

ENGINEER'S REPORT

CITY OF HAYWARD
MAINTENANCE DISTRICT NO. 2
FISCAL YEAR 2005-06

The undersigned, acting of behalf of the City of Hayward, respectfully submits the enclosed Engineer's Report as directed by the City of Hayward City Council. The undersigned certifies that he is a Professional Engineer, registered in the State of California.

Dated: _____

By: _____

Andrew S. Gaber, P.E.
RCE No. 45187

I HEREBY CERTIFY that the Engineer's Report, together with the Assessment Roll and Assessment Diagram thereto attached, was filed with me on the ____ day of _____, 2005.

Angelina Reyes
City Clerk, City of Hayward

By: _____

I HEREBY CERTIFY that the enclosed Engineer's Report, together with the Assessment Roll and the Assessment Diagram thereto attached, was approved and confirmed by the City Council of the City of Hayward, Alameda County, California, on the ____ day of _____, 2005.

Angelina Reyes
City Clerk, City of Hayward

By: _____

I HEREBY CERTIFY that the enclosed Engineer's Report, together with the Assessment Roll and the Assessment Diagram thereto attached, was filed with the County Auditor of the County of Alameda, on the _____ day of _____, 2005.

By: _____
Andrew S. Gaber, P.E.
RCE No. 45187

SECTION I

**INTRODUCTION
ENGINEER'S REPORT**

**CITY OF HAYWARD
MAINTENANCE DISTRICT NO. 2**

FISCAL YEAR 2005-06

Background Information

On April 16, 2002, by Resolution No. 02-043, the City Council approved the Final Map of Tract 7317 for a 114 lot residential subdivision, with 109 single-family homes, located on the northerly side of Eden Shores Boulevard and westerly of the Union Pacific Railroad.

On November 26, 2002, by Resolution No. 02-171, the City Council approved the Final Map of Tract 7361 for a 120 lot residential subdivision, with 116 single-family homes, located on the southerly side of Eden Shores Boulevard and westerly of the Union Pacific Railroad.

On June 3, 2003, by Resolution No. 03-083, the City Council approved the Final Map for Tract 7360, for a 318 lot residential subdivision, with 309 single-family homes located on the southwesterly side of Eden Shores Drive and westerly of the Union Pacific Railroad. The additional lots in each subdivision, 27 total, will be landscaped areas, parks, wetlands or buffer areas.

Conditions of approval for Tracts No. 7317, 7360 and 7361, included provisions for construction of a water buffer channel and storm-water pretreatment pond, masonry walls, anti-predator fences, and landscaping within the proposed development area. Maintenance District No. 2 will provide a funding source to operate and maintain these improvements, including the furnishing of water and electrical energy along with debris removal, weeding, trimming and pest control spraying.

On June 24, 2003, by Resolution No. 03-102, the City Council ordered the formation of Maintenance District No. 2 to provide the funding for the operation and maintenance of these facilities.

Proposition 218 Compliance

On November 5, 1996, California voters approved Proposition 218 entitled "Right to Vote On Taxes Act," which added Articles XIII C and XIII D to the California Constitution. While its title refers only to taxes, Proposition 218 establishes new procedural requirements for the formation and administration of assessment districts.

These new procedures stipulate that, even if assessments are initially exempt from Proposition 218, future increases in assessments must comply with the provisions of Proposition 218. However, if the increase in assessment was anticipated in the assessment formula (e.g., Consumer Price Index (CPI) increase or assessment cap) then the City would be in compliance with the provisions of Proposition 218 if the assessments did not exceed the previously approved assessment formula.

For FY 2005-06, the proposed collection rate is \$155.00 per parcel, the same as the current fiscal year. Since the proposed FY 2005-06 assessment is below the maximum base assessment, Proposition 218 proceedings are not needed.

Current Annual Administration

The annual Engineer's Report includes: (1) a description of the improvements to be operated, maintained and serviced, (2) an estimated budget, and (3) a listing of the proposed collection rate to be levied upon each assessable lot or parcel.

The City of Hayward will hold a public hearing on April 26, 2005, to provide an opportunity for any interested person to be heard. At the conclusion of the public hearing, the City Council may adopt a resolution confirming the levy of assessments as originally proposed or as modified. Following the adoption of this resolution, the final Assessor's Roll will be prepared and filed with the County Auditor's office to be included on the FY 2005-06 tax roll.

Payment of the assessment for each parcel will be made in the same manner and at the same time as payments are made for property taxes. All funds collected through the assessment must be placed in a special fund and can only be used for the purposes stated within this report.

SECTION II

**ENGINEER'S REPORT PREPARED PURSUANT TO THE PROVISIONS
OF CHAPTER 26 OF PART 3 OF DIVISION 7 OF THE STREETS AND HIGHWAYS
CODE OF THE STATE OF CALIFORNIA**

**CITY OF HAYWARD
MAINTENANCE DISTRICT NO. 2**

FISCAL YEAR 2005-06

Pursuant to Part 3, Division 7 of the Streets and Highways Code of the State of California and the Chapter 10, Article 10 of the Hayward Municipal Code, and in accordance with the Resolution of Intention, being Resolution No. 05-____, Preliminarily Approving the Engineer's Report, on March 8, 2005, by the City Council of the City of Hayward, County of Alameda, State of California, in connection with the proceedings for:

**CITY OF HAYWARD
MAINTENANCE DISTRICT No. 2**

Hereinafter referred to as the "District", I, Andrew S. Gaber, the duly appointed ENGINEER OF WORK, submit herewith the "Report" consisting of five (5) parts as follows:

PART A: PLANS AND SPECIFICATIONS

This part describes the improvements in the District. Plans and specifications for the improvements are as set forth on the lists thereof, attached hereto, and are on file in the Office of the City Clerk of the City of Hayward, and are incorporated herein by reference.

PART B: ESTIMATE OF COST

This part contains an estimate of the cost of the proposed improvements, including incidental costs and expenses in connection therewith, as set forth on the lists thereof, attached hereto, and are on file in the Office of the City Clerk of the City of Hayward.

PART C: MAINTENANCE ASSESSMENT DISTRICT DIAGRAM

This part incorporates, by reference, a Diagram of the Maintenance Assessment District showing the exterior boundaries of the Maintenance Assessment District and the boundaries of any zones within the Maintenance Assessment District.

PART D: METHOD OF APPORTIONMENT OF ASSESSMENT

This part describes the method of apportionment of assessments based upon the parcel classification of land within the Assessment District, and in proportion to the estimated benefits to be received.

PART E: PROPERTY OWNER LIST & ASSESSMENT ROLL

This part contains an assessment of the estimated cost of the improvements on each benefited lot or parcel of land within the Assessment District. The Assessment Roll is filed in the Office of the Hayward City Clerk.

PART A

PLANS AND SPECIFICATIONS

The facilities, which have been constructed within the City of Hayward's Maintenance District No. 2 boundaries, and those which may be subsequently constructed, will be operated, maintained and serviced and are generally described as follows:

DESCRIPTION OF IMPROVEMENTS

CITY OF HAYWARD
MAINTENANCE DISTRICT No. 2

FISCAL YEAR 2005-06

The following improvements are proposed to be operated, maintained and serviced in Maintenance District No. 2 for FY 2005-06:

- *Water Buffer Channel;*
- *Storm-water Pre-Treatment Pond;*
- *Masonry Walls;*
- *Anti-predator Fences; and*
- *Miscellaneous Landscaping*

The operation, maintenance and servicing of these improvements include, but are not limited to: personnel; water, for irrigation and buffer replenishment; electrical energy; materials, including diesel fuel and oil, debris removal, weeding, trimming, pest control spraying, etc.

For FY 2005-06, the collection rate will remain the same as the current fiscal year at \$155.00 per parcel. This amount is sufficient to fund required maintenance and administrative activities, and allow the capital reserve fund to grow so that future major expenditures, such as replacement of the predator fencing or one of the water buffer pumps, can be accommodated without a substantial increase in the yearly collection rate. If in future years, there is a need for additional funds, the collection rate may be increased up to the base assessment rate, currently \$667.44 per parcel. This base assessment amount is increase annually based upon the change in the Consumer Price Index. Future increases in the collection rate up to the base assessment amount would not require the noticing and balloting of property owners per the requirements of Proposition 218.

PART B

ESTIMATE OF COST

Chapter 10, Article 10 of the Hayward Municipal Code and as supplemented by the provisions of Chapter 26 of Part 3 of Division 7 of the Streets and Highways Code of the State of California provides that the total cost of operation, maintenance and servicing of the water buffer channel, water treatment pond, masonry walls, anti-predator fences and landscaping can be recovered by the District. Incidental expenses including administration of the District, engineering fees, legal fees and all other costs associated with these improvements can also be included.

The base assessment rate was set at \$655.00 per parcel for the base year July 1, 2003 with an automatic allowance for a CPI increase annually. On July 1, 2003, the CPI Index was set at 192.25. The CPI Index for December 1, 2004 was 195.90, which translates to a 1.899% (195.90/192.25) increase since the base year. Therefore, the revised base assessment that could be levied in FY 2005-06 is \$667.44 per parcel. Future CPI increases in the base assessment rate do not require the noticing and balloting of property owners per the requirements of Proposition 218.

The costs for FY 2005-06 are summarized on the following page. These cost estimates have been provided by the City of Hayward.

TABLE 1: COST ESTIMATE FY 2005-2006	
Maintenance District No. 2 - Eden Shores	
	FY 2005-06 Budget
<u>I. MAINTENANCE COSTS</u>	
(a) Landscaping maintenance including debris removal, weeding, trimming, and spraying	\$7,500.00
(b) Masonry wall (surface maintenance)	\$800.00
(c) Electrical energy	\$400.00
(d) Irrigation and buffer replenishment water	\$8,000.00
(e) Predator fence maintenance	\$9,000.00
(f) Steel structures maintenance	\$4,200.00
(g) Buffer lake maintenance	\$13,000.00
(h) Pre-treatment pond	\$10,000.00
(i) Contingency (15%)	\$7,935.00
Total Maintenance Cost	\$60,835.00
<u>II. INCIDENTAL COSTS</u>	
(a) Administration (City)	\$2,500.00
(b) Engineer's Report, preparation of documents, printing, and advertising	\$3,300.00
(c) County Collection Charges (1.7%)	\$1,383.38
Total Incidental Costs	\$7,183.38
<u>III. RESERVES</u>	
(a) Operating Reserves (50% of Maintenance & Incidentals) ¹	\$34,009.19
(b) Capital Reserves ²	\$106,251.22
Total Reserve Costs	\$140,260.41
<u>IV. TOTAL ASSESSABLE COSTS</u>	
	\$208,278.79
Less Surplus from prior fiscal year	<u>\$126,903.79</u>
NET ASSESSMENT COLLECTION FOR FISCAL YEAR	\$81,375.00
Number of Assessable Parcels	525
Collection per Parcel	\$155.00
Base Assessment per Parcel	\$667.44
<u>NOTES:</u>	
<p>⁽¹⁾ Operating reserves are needed for future fiscal years because the City does not receive the assessment revenue from the County until January, therefore it is necessary to have an operating reserve fund to cover 6 months of cash flow from July 1 through December 31 each fiscal year.</p> <p>⁽²⁾ In the event capital facilities need replacement because of failure, damage or vandalism these funds will be used. Since the developer is responsible for a 1 year maintenance period the capital reserves will be collected next fiscal year.</p>	

PART C

ASSESSMENT DISTRICT DIAGRAM

The Assessment District Diagram for the City of Hayward's Maintenance District No. 2 (Eden Shores) is on file in the Office of the Hayward City Clerk and is incorporated in this report on the following page.

A detailed description of the lines and dimensions of each lot or parcel within the Assessment District are those lines and dimensions shown on the maps of the Assessor of the County of Alameda for FY 2005-06.

For additional information as to the bearings, distances, monuments, easements, etc. of subject subdivisions, reference is hereby made to Tracts No. 7317, 7360 and 7361 filed in the Office of the Recorder of Alameda County.

**APPROVED
ENGINEER OF WORK**

BY: _____ DATE _____
 Filed in the Office of the City Clerk of the City of Hayward, County of Alameda, State of California
 this _____ Day of _____

CITY CLERK, CITY OF HAYWARD
 COUNTY OF ALAMEDA, CALIFORNIA

An assessment was Confirmed and Levied by the City of Hayward, California, on the Lots, Pieces and Parcels of Land shown on this Assessment Diagram on the _____ Day of _____ and said Assessment Diagram and the Assessment Roll were filed in the Office of the City Clerk, City of Hayward on the _____ Day of _____ Reference is made to said Recorded Assessment Roll for the Exact Amount of each Assessment levied against each Parcel of Land Shown on the Assessment Diagram.

CITY CLERK, CITY OF HAYWARD, CA

COUNTY AUDITOR'S CERTIFICATE:

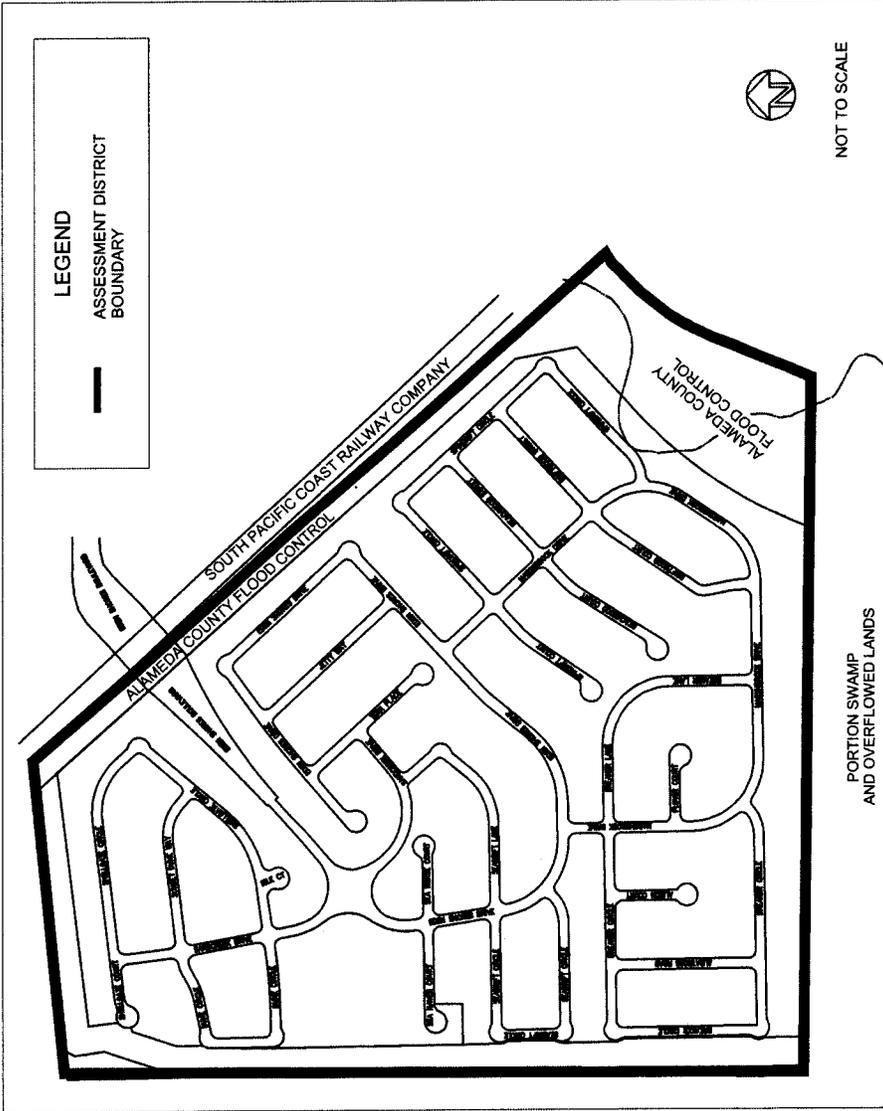
On this _____ Day of _____, the Assessment Diagram and the Accompanying Assessment Roll have been filed in the Office of the Auditor of Alameda County.

AUDITOR OF THE COUNTY OF ALAMEDA,
 STATE OF CALIFORNIA

COUNTY RECORDER'S CERTIFICATE:

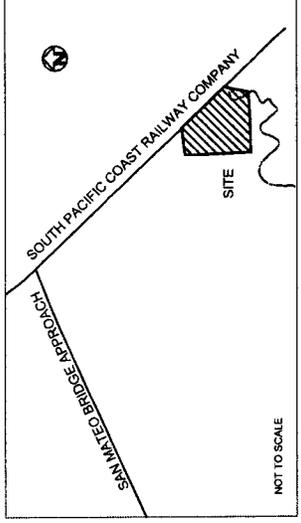
Recorded this _____ Day of _____, in the Office of the County Recorder of the County of Alameda, in Book _____ of Maps of Assessment District at Pages _____ Thereof at _____

COUNTY RECORDER,
 COUNTY OF ALAMEDA, STATE OF CALIFORNIA



**ASSESSMENT DIAGRAM
 MAINTENANCE DISTRICT NO. 2
 (Eden Shores)**

NOTE:
 For a detailed description of the lines and dimensions of the lots, reference is made to the Alameda County Assessor's Maps for the fiscal year 2004-05. For information on the streets and other appurtenant lines and dimensions within the subdivided area, reference is made to the filed final map of Tracts 7085, 7317, 7360, and 7361.



PART D

METHOD OF APPORTIONMENT OF ASSESSMENT

GENERAL

Chapter 10, Article 10 of the Hayward Municipal Code and as supplemented by the provisions of Chapter 26 of Part 3 of Division 7 of the Streets and Highways Code of the State of California permits the establishment of assessment districts by agencies for the purpose of providing certain public improvements which include the operation, maintenance and servicing of water buffer channels, water treatment ponds, masonry walls, predator fences and landscaping.

Proposition 218 requires that maintenance assessments must be levied according to benefit rather than according to assessed value. In addition, Article XIID, Section 4(a) of the California Constitution limits the amount of any assessment to the proportional special benefit conferred on the property.

Because assessments are levied on the basis of benefit, they are not considered a tax, and, therefore, are not governed by Article XIII A of the California Constitution.

Article XIID provides that publicly owned properties must be assessed unless there is clear and convincing evidence that those properties receive no special benefit from the assessment. Exempted from the assessment would be the areas of public streets, public avenues, public lanes, public roads, public drives, public courts, public alleys, public easements and rights-of-ways.

The properties benefiting from the operation, maintenance and servicing of water buffer channels, water treatment ponds, masonry walls, predator fences and landscaping consist of the 525 single-family residential lots located within Tracts No. 7317, 7360 and 7361.

Each of the 525 single-family residential lots receive a special benefit in that they are able to be developed because protection to the adjacent open space has been provided through the construction of these improvements. The special benefit derived by the individual parcels is indistinguishable between parcels. Therefore, all residential parcels derive the same benefit and the corresponding method of assessment for residential land uses is based on a per parcel basis.

The projected FY 2005-06 operation and maintenance cost, including incidental costs, is \$81,375.00. Since the amount needed to operate and maintain facilities in this District is below the annual assessment, the following amount should be collected:

\$155.00 per parcel.

PART E

PROPERTY OWNER LIST & ASSESSMENT ROLL

A list of names and addresses of the owners of all parcels within the City of Hayward's Maintenance District No. 2 is shown on the last equalized Property Tax Roll of the Assessor of the County of Alameda, which is hereby made a part of this report. This list is keyed to the Assessor's Parcel Numbers as shown on the Assessment Roll on file in the Office of the Hayward City Clerk.

The proposed collection rate and the amount for FY 2005-06 apportioned to each lot or parcel, as shown on the latest roll at the Assessor's Office, are on file in the Office of the City Clerk. The description of each lot or parcel is part of the records of the Assessor of the County of Alameda and these records are, by reference, made a part of this report.

The total amount proposed to be collected for FY 2005-06 is \$81,375.00.

The Assessment Roll for FY 2005-06 is included on the following page of this Report and is on file in the Office of the Hayward City Clerk.

APPENDIX A

FY 2005-06
ASSESSMENT ROLL

**CITY OF HAYWARD - EDEN SHORES
 MAINTENANCE DISTRICT NO. 2**

APPENDIX A

PARCEL NUMBER	LEG. NO.	FINAL AMOUNT	DESCRIPTION
461-0103-061-00	641	\$155.00	MAINTENANCE DISTRICT NO. 2, EDEN SHORES
461-0103-062-00	641	\$155.00	MAINTENANCE DISTRICT NO. 2, EDEN SHORES
461-0103-063-00	641	\$155.00	MAINTENANCE DISTRICT NO. 2, EDEN SHORES
461-0103-064-00	641	\$155.00	MAINTENANCE DISTRICT NO. 2, EDEN SHORES
461-0103-065-00	641	\$155.00	MAINTENANCE DISTRICT NO. 2, EDEN SHORES
461-0103-066-00	641	\$155.00	MAINTENANCE DISTRICT NO. 2, EDEN SHORES
461-0103-067-00	641	\$155.00	MAINTENANCE DISTRICT NO. 2, EDEN SHORES
461-0103-068-00	641	\$155.00	MAINTENANCE DISTRICT NO. 2, EDEN SHORES
461-0103-069-00	641	\$155.00	MAINTENANCE DISTRICT NO. 2, EDEN SHORES
461-0103-070-00	641	\$155.00	MAINTENANCE DISTRICT NO. 2, EDEN SHORES
461-0103-071-00	641	\$155.00	MAINTENANCE DISTRICT NO. 2, EDEN SHORES
461-0103-072-00	641	\$155.00	MAINTENANCE DISTRICT NO. 2, EDEN SHORES
461-0103-073-00	641	\$155.00	MAINTENANCE DISTRICT NO. 2, EDEN SHORES
461-0103-074-00	641	\$155.00	MAINTENANCE DISTRICT NO. 2, EDEN SHORES
461-0103-075-00	641	\$155.00	MAINTENANCE DISTRICT NO. 2, EDEN SHORES
461-0103-076-00	641	\$155.00	MAINTENANCE DISTRICT NO. 2, EDEN SHORES
461-0103-077-00	641	\$155.00	MAINTENANCE DISTRICT NO. 2, EDEN SHORES
461-0103-078-00	641	\$155.00	MAINTENANCE DISTRICT NO. 2, EDEN SHORES
461-0103-079-00	641	\$155.00	MAINTENANCE DISTRICT NO. 2, EDEN SHORES
461-0103-080-00	641	\$155.00	MAINTENANCE DISTRICT NO. 2, EDEN SHORES
461-0103-081-00	641	\$155.00	MAINTENANCE DISTRICT NO. 2, EDEN SHORES
TOTAL		\$81,375.00	

DRAFT

HAYWARD CITY COUNCIL

RESOLUTION NO. 05-

Introduced by Council Member _____

mm
2/28/05

RESOLUTION PRELIMINARILY APPROVING ENGINEER'S REPORT, DECLARING INTENTION TO LEVY ASSESSMENTS FOR FISCAL YEAR 2005-006 AND SETTING APRIL 26, 2005, AS THE PUBLIC HEARING DATE CONCERNING MAINTENANCE DISTRICT NO. 2 - EDEN SHORES STORM WATER FACILITIES AND WATER BUFFER (MD NO. 2)

BE IT RESOLVED by the City Council of the City of Hayward, as follows:

1. Maintenance District No. 2-Eden Shores Buffer Zone and Pre-Treatment Pond (the "maintenance district") was established by the adoption of Resolution No. 03-102 to provide funds for the operation and maintenance of storm water facilities and the wetland buffer bordering the residential portion of Eden Shores which encompasses the three residential tracts in Eden Shores totaling 525 homes. The maintenance district consists of the properties as shown on the Assessment Roll on file in the Office of the Hayward City Clerk.
2. The Engineer of Work has prepared a report in accordance with the City of Hayward Municipal Code, Chapter 10, Article 10, section 10-10.25. Said report has been made, filed, and duly considered by this City Council and is hereby deemed sufficient and preliminarily approved. Said report shall stand as the report for all subsequent proceedings related to the proposed levy of district assessments for fiscal year 2005-2006.
3. It is the intention of the City Council to order the levy and collection of assessments for the maintenance of the storm water facilities and wetland buffer pursuant to Part 3, Chapter 26 of Division 7 of the California Streets and Highways Code (commencing with section 5820 thereof).
4. The proposed assessment is \$155 per parcel, the same as that assessed in fiscal year 2004-2005.
5. Reference is hereby made to the aforementioned report on file with the City Clerk for a full and detailed description of the improvements, the boundaries of the proposed maintenance district, and the proposed assessments upon assessable lots within said district.
6. On April 26, 2005, at the hour of 8 p.m., in the regular meeting place of this City Council, City Council Chambers, 777 B Street, Hayward, California, a public hearing will be held on the levy of the proposed assessment.

Prior to the conclusion of said public hearing, any interested person may file a written protest with the City Clerk, or having previously filed a protest, may file a written withdrawal of that protest. A written protest by a property owner shall contain a description sufficient to identify the property owned by such owner.

7. The City Clerk is hereby directed to cause a notice of said meeting and hearing to be made in the form and manner provided by law, specifically section 54954.6 of the Government Code of the State of California.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2005

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:

MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward