

October 29, 2017

Fresno County Board of Supervisors
2281 Tulare Street, Room 301
Fresno, CA 93721

Re: Item No. 48 on the Board Agenda for October 31, 2017: Suspension of Public Facilities Impact Fees

Dear Members of the Board of Supervisors:

I'd like to draw your attention to wording from the County's Ordinance Code that may help you in your discussion of the continuing suspension of public facilities impact fees.

I refer to **Chapter 17.90**. In Parts 1, 3 and 22 of Subsection B of Section 20 of **Chapter 17.90**, you will find the purpose for requiring public facilities impact fees, their correlation to the General Plan and a list of the types of facilities the fees are to finance. Below is the relevant text:

Chapter 17.90.020. B. *The board finds, determines, and declares as follows:*

1. *...Failure of the board to adopt and of the county to impose public facilities impact fees on new development will subject all Fresno County residents and workers, respectively, in Fresno County to continually decreasing standards of county public facilities serving those residents and workers, and therefore, resulting in conditions that are perilous to their health and safety and general well-being.*
3. *The board's adoption of this chapter is consistent with the Policy Document of the County General Plan Update adopted by the board on October 3, 2000 (the "2000 General Plan Update"), which states the following with respect to county public facilities: "(t)he County shall require that new development pays its fair share of the cost of developing new facilities ..." (Policy PF-B.1) and "(t)he County shall develop and adopt ordinances specifying acceptable methods for new development to pay for new capital facilities.... Possible mechanisms include development fees..." (Policy PF-B.B).*
22. *The purposes of the fees required by, and collected under, this chapter are to finance costs of additional, expanded, and refurbished (as provided in this chapter) county public facilities used to provide countywide public protection facilities, general governmental facilities, library facilities, health and human services facilities, sheriff's patrol and investigation facilities, and county parks and open space facilities, including administration charges related to such fees, as provided further in this chapter, all of which are further described in the initial impact fee report.*

As you might expect, the 2000 General Plan Update contains provisions for executing these safeguards. Below, for example, is a full reprint of General Plan Program PF-B.B and Policy PF-B.1.

General Plan Program PF-B.B

The County shall develop and adopt ordinances specifying acceptable methods for new development to pay for new capital facilities and expanded services. Possible mechanisms include development fees, assessment districts, land/facility dedications, county service areas, and community facilities districts.

General Plan Policy PF-B.1

The County shall require that new development pays its fair share of the cost of developing new facilities and services and upgrading existing public facilities and services; exceptions may be made when new development generates significant public benefits (e.g., low income housing) and when alternative sources of funding can be identified to offset foregone revenues.

Equally important is an understanding of the association between General Plan policies and the environmental mitigation measures adopted by the Board in 2000.

Consider, for example, the four adverse impacts identified in the 2000 EIR that are shown in the chart below. Each is written out in full at the left. Shown at the right is an associated mitigation measure. (Note: Although the EIR identified several mitigation measures for each adverse impact, only a single policy is provided below).

Because the 2000 General Plan (the project under environmental review) already contained these requisite policies, the impacts listed below were judged to be less than significant. Absent these policies, it's reasonable to conclude that the environmental determinations would have been altogether different.

Adverse Impact from the 2000 EIR	➔ Mitigation Measures in the 2000 General Plan
Adverse Impact 4.6-1 <i>Development under the Draft General Plan would increase the demand for protection from the Fresno County Sheriff's Department.</i>	Policy PF-G.4 <i>The County shall require development to pay its fair share of the costs for providing law enforcement facilities and equipment to maintain service standards.</i>
Adverse Impact 4.6-3 <i>Development under the Draft General Plan would increase the demand for fire protection services from districts serving the unincorporated area of the County.</i>	Policy PF-H.9 <i>The County shall require new development to develop or to pay its fair share of the costs to fund fire protection facilities that, at a minimum, maintain the service level standards in the preceding policies.</i>
Adverse Impact 4.6-6 <i>Development under the Draft General Plan would increase the demand for parks and recreational facilities in unincorporated areas of the County.</i>	Policy OS-H.3 <i>The County shall require the dedication of land and/or payment of fees, in accordance with local authority and State law (e.g., Quimby Act), to ensure funding for the acquisition and development of public recreation facilities. The fees are to be set and adjusted, as necessary, to provide for a level of funding that meets the actual cost to provide for all the public parkland and park development needs generated by new development.</i>
Adverse Impact 4.6-10 <i>Development under the Draft General Plan would increase demand for Fresno County Library facilities.</i>	Policy PF-A.1 <i>The County shall ensure through the development review process that public facilities and services will be developed, operational, and available to serve new development. The County shall not approve new development where existing facilities are inadequate unless the applicant can demonstrate that all necessary public facilities will be installed or adequately financed and maintained (through fees or other means).</i>

I think you can see that public facilities impact fees are part and parcel of the 2000 General Plan and that they serve to mitigate adverse impacts stemming from development under that Plan.

And so, the question I pose to you is this: Given the environmental and General Plan policy requirements to levy such fees, is there a way to suspend them?

I believe there is, but not by amending Ordinance 17.90 alone. As the legislative body for the County of Fresno, you have the right and the responsibility to amend the General Plan and remake requisite environmental findings as needed. That includes making changes to the programs and policies in the General Plan that pertain to public facilities impact fees.

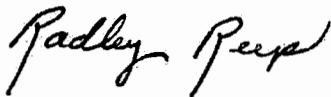
Merely amending Ordinance 17.90 will not suffice, as doing so will, ipso facto, negate or render ineffective the General Plan program, policies and mitigation measures cited above, namely, Program PF-B.B and Policies PF-B.1, PF-G.4, PF-H.9, OS-H.3 and PF-A.1 (mitigation measures).

I thank you for considering the information I've provided and urge you to discuss this matter among yourselves and with County Counsel prior to making your decision. I believe you will discover that as a Board, while you are free to amend the General Plan, you are not free to contravene it.

Thankfully, because there does not exist an economic emergency relative to the suspension of public facilities impact fees such that failing to take action will cause an immediate threat to the health, safety and general well-being of county residents, I reason you have the time needed to embark on a proper course of action.

Thank you,

Radley Reep

A handwritten signature in black ink that reads "Radley Reep". The signature is written in a cursive, flowing style.

radleyreep@netzero.com
(559) 326-6227

THE BUSINESS JOURNAL

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CLERK. BOARD OF SUPERVISORS

IN THE COUNTY OF FRESNO, STATE OF CALIFORNIA

NOTICE OF PUBLIC HEARING

to consider and take action on adopting the proposed Ordinance Amending Chapter 17.90 of Title 17 entitled "Divisions of Land"

DATE AND TIME OF PUBLIC HEARING:
OCTOBER 31, 2017 AT 9:00 AM

DECLARATION OF PUBLICATION (2015.5 C.C.P.)

MISC. NOTICE

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN THAT the Board of Supervisors ("Board") of the County of Fresno ("County") will hold a second public hearing on **October 31, 2017, at 9:00 AM** or as soon thereafter as the matter may be heard, in the Board Chambers, County Hall of Records, Third Floor, 2281 Tulare Street, Fresno, California, 93721, to consider and take action on adopting the proposed Ordinance Amending Chapter 17.90 of Title 17, entitled, "Divisions of Land," of the Fresno County Ordinance Code, Relating to Authorizing Public Facilities Impact Fees and a Schedule of Fees (collectively, "Ordinance Amendment"). On October 17, 2017, the Board conducted the first public hearing and reading of the proposed Ordinance Amendment, and voted to approve the ordinance amending Chapter 17.90 to extend the temporary suspension for an additional one-year period (November 10, 2017 to November 10, 2018), and to extend to April 15, 2019 the commencement of the first five-year interval requiring the County to conduct or obtain an updated fee study for updated public facilities impact fees. All of such actions shall not otherwise affect Chapter 17.90, or the authority for any action taken or to be taken thereunder, including, but not limited to, the County's expenditure or other use at any time of any public facilities impact fees that have been required to be paid and collected pursuant to Chapter 17.90. The Board also voted to waive reading of the ordinance in its entirety and to set the second reading for October 31, 2017.

Chapter 17.90 of the County's ordinance code authorizes the County to establish, impose, and collect public facilities impact fees as a requirement of the County, or a relevant city, as applicable, before the County or the relevant city, as applicable, issues a building permit for construction with respect to development. There are limited circumstances for exemptions from or conditional deferral of paying these fees. These County public facilities impact fees would provide financing for additional, expanded, and refurbished County public facilities needed to meet the increased demand on the County's public facilities caused by development within the cities and unincorporated areas of the County, as provided in Chapter 17.90.

If the Board adopts the proposed Ordinance Amendment, it will take effect immediately upon its adoption. A copy of the Board agenda materials (including the proposed Ordinance Amendment) for the Board's October 17, 2017 actions on this matter are available for public review at the office of the Clerk to the Board (at the address for the Board), and on the County's Internet web site at www.co.fresno.ca.us.

A copy of the Board agenda materials for the proposed Board actions on this matter will be made available for public review, commencing on or about the Wednesday immediately before the Board public hearing date, at the office of the Clerk to the Board (above), and on the County's Internet web site, above. Anyone may attend the public hearing and make any oral or written presentations at that time. Also, if anyone wishes to submit any written comments to the Board on this matter in advance of the hearing, he or she may do so by delivering those comments, either personally or by mail, to the Clerk to the Board at the above address for the Board. If you have any questions concerning this notice, please contact William Kettler, Capital Projects Interim Division Manager, Department of Public Works & Planning, at (559) 600-4233.

Bernice Seidel, Clerk
Board of Supervisors of the
County of Fresno
By Lisa Craft
Date: October 20, 2017
10/20/2017

STATE OF CALIFORNIA

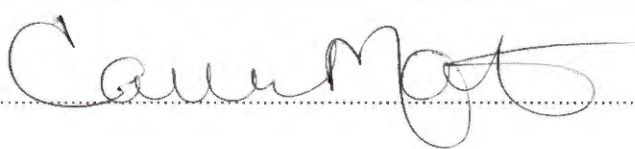
COUNTY OF FRESNO

I am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the above entitled matter. I am the principal clerk of **THE BUSINESS JOURNAL** published in the city of Fresno, County of Fresno, State of California, Monday, Wednesday, Friday, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of Fresno, State of California, under the date of March 4, 1911, in Action No.14315; that the notice of which the annexed is a printed copy, has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to wit:

OCTOBER 20, 2017

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed at Fresno, California,

OCTOBER 20, 2017

ON _____


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CLERK. BOARD OF SUPERVISORS

IN THE COUNTY OF FRESNO, STATE OF CALIFORNIA

PUBLIC NOTICE
ADOPTED ORDINANCE NO. 17-021

DATE ORDINANCE WAS ADOPTED:

OCTOBER 31, 2017

DECLARATION OF PUBLICATION (2015.5 C.C.P.)

MISC. NOTICE

STATE OF CALIFORNIA

COUNTY OF FRESNO

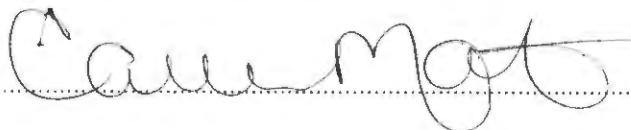
I am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the above entitled matter. I am the principal clerk of **THE BUSINESS JOURNAL** published in the city of Fresno, County of Fresno, State of California, Monday, Wednesday, Friday, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of Fresno, State of California, under the date of March 4, 1911, in Action No.14315; that the notice of which the annexed is a printed copy, has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to wit:

NOVEMBER 8, 2017

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed at Fresno, California,

NOVEMBER 8, 2017

ON



PUBLIC NOTICE
ADOPTED ORDINANCE NO. 17-021
SUMMARY

NOTICE is hereby given that at its regularly scheduled meeting on October 31, 2017, the Fresno County Board of Supervisors adopted Ordinance No. 17-021, an Ordinance of the County of Fresno, State of California.

SUMMARY OF ORDINANCE

The Board of Supervisors has amended the County's Public Facilities Impact Fees Ordinance (Chapter 17.90) to continue the County's temporary suspension for an additional year (November 10, 2017 to November 10, 2018) of: (a) the County's requirement for building permit applicants to pay the County's Public Facilities Impact Fees for construction that is subject to Chapter 17.90; (b) the County's and cities' collection of such fees during such period; and (c) any requirement in Chapter 17.90 for the County to consider and take any possible action on any annual update of any such fees under the schedule(s) of fees, without in any other way whatsoever otherwise affecting Chapter 17.90, or the authority for any action taken or to be taken thereunder.

The amendment also includes a provision to extend the commencement of the first five-year interval (to April 15, 2019) requiring the County, under Chapter 17.90, to conduct or obtain an updated fee study for updated County Public Facilities Impact Fees.

The full text of this Ordinance is available online at <https://fresnocounty.legistar.com/Calendar.aspx> under the October 31, 2017 meeting date, or at the office of the Clerk to the Board of Supervisors, 2281 Tulare Street, Room 301, Fresno, California.

This Ordinance was adopted by the following vote:

AYES: Supervisors Borgeas, Magsig, Mendes, Pacheco, Quintero

NOES: None

ABSENT: None

ATTEST:

Bernice E. Seidel
Clerk, Board of Supervisors
11/08/2017