



Board Agenda Item 48

DATE: October 31, 2017

TO: Board of Supervisors

SUBMITTED BY: Steven E. White, Director
Public Works and Planning

SUBJECT: Amendment to County Ordinance for Public Facilities Impact Fees

RECOMMENDED ACTION(S):

- A. Conduct second hearing to consider adopting a proposed amendment (the "Ordinance Amendment") to the County's Public Facilities Impact Fees Ordinance (Chapter 17.90) by:**
- 1. Continuing the County's temporary suspension for an additional one-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; and**
 - 2. Extending 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.**
 - 3. Waive reading of the proposed Ordinance Amendment in its entirety.**

The first hearing of this item was conducted on October 17, 2017. At that hearing, the Board voted to waive reading of the Ordinance in its entirety and set second hearing for adoption for October 31, 2017. This item comes before the Board pursuant to direction received during consideration of the draft Capital Improvement Plan (CIP) at the Board hearing of September 12, 2017. During consideration of that item, the Board directed staff to return on October 17, 2017 with an item to continue the County's temporary suspension for collecting Public Facilities Impact Fees.

The recommended actions will authorize adoption of the proposed Ordinance Amendment, which will do the following for an additional one-year from November 10, 2017 to November 10, 2018:

1. Continue the County's temporary suspension of the County's requirement for building permit applicants to pay the fees for construction;
2. Continue the temporary suspension of the County's and cities' collection of the fees during such period; and

3. Continue the Board's and staff's consideration of (and future action on) any fees under the Public Facilities Impact Fees' Schedule of Fees.
4. Allow sufficient time for review of an updated Public Facilities Impact Fees study currently in development by the Board, the 15 cities and other interested parties, and for the Board's adoption of the study, updated Ordinance and new fee schedule.

Adoption of the proposed Ordinance Amendment would also revise the five-year cycle, under Chapter 17.90, for obtaining an updated or new impact fee report to begin with County FY 2018-19 and require the adoption of an updated or new impact fee report and the rate of payment of the fees no later than April 15, 2019.

ALTERNATIVE ACTION(S):

The current temporary suspension of the collection of fees under the Ordinance (Chapter 17.90) will end November 9, 2017 unless action to extend the suspension is taken by the Board.

FISCAL IMPACT:

Collection of fees has been temporary suspended since 2010 due to economic conditions in Fresno County. Challenging economic conditions have persisted, but the need for additional County public facilities related to new development has increased. The County has forgone revenue that otherwise could have been collected under the Ordinance and applied to additional, expanded, and refurbished County public facilities caused by new residential and non-residential development in Fresno County. Staff is recommending a new Public Facilities Impact Fees study to support Public Facilities Impact Fees that better account for these circumstances.

DISCUSSION:

Pursuant to Board direction received on June 7, 2016 to develop a draft Capital Improvement Plan (CIP) with two silos (categories) rather than the current six silos, a draft update of the CIP was presented and considered at the Board hearing of September 12, 2017. During that hearing, the Building Industry Association of Fresno/Madera Counties (BIA) requested a delay of 60 days to review the draft CIP and any associated fee ramifications. Staff indicated support of the BIA request, identified to the Board that the current suspension of collecting the fees expires on November 9, 2017 and requested that the Board provide direction to staff to return to the Board in October 2017 with an Ordinance proposing to extend the suspension of fee collection to accommodate the BIA review period. The Board directed staff to return with the aforementioned Ordinance in October 2017 and not to return with the fee proposal sooner than July 1, 2018.

By way of background, since adoption and implementation of the Public Facilities Impact Fees in 2008, subsequent severe economic conditions resulted in the Board taking action to amended Chapter 17.90 three times to provide for three successive temporary suspensions. The total current temporary suspension is from November 10, 2010 to November 9, 2017.

The recommended actions would extend the temporary suspension of the County's requirement for building permit applicants to pay the Public Facilities Impact Fees for construction that is subject to Chapter 17.90, for one-year with the collection of such fees commencing upon the day immediately following the expiration of the proposed suspension on November 10, 2018.

The recommended actions also revise the five-year cycle under Chapter 17.90 to obtain an update or prepare a new impact fee report to begin with County FY 2018-19, and require the adoption of an updated or new impact fee report and the rate of payment of the fees no later than April 15, 2019.

Also included is a recommended action that neither the Board nor staff shall be required to consider and possibly act on any annual update of the schedule of fees during the suspension of fee collection. Chapter 17.90 currently provides that such annual fee updates are to be considered by your Board under a cost index formula and (if any fee increases are to be implemented under the formula) acted upon by your Board no later than April 15 prior to each fiscal year.

If your Board adopts the recommended Ordinance Amendment, the suspension of fee collection would automatically terminate on November 9, 2018, at the end of the additional one-year period. Chapter 17.90 requires fee updates to be made no later than April 15 prior to the conclusion of each fiscal year. Completing fee updates by April 15 allows the cities and County to take the necessary action to modify their procedures so any adjustments can be implemented on July 1 of the next fiscal year.

When applicants obtain building permits for construction projects in the cities, the cities collect the fees for the County under their memoranda of understanding with the County. Since the recommended actions, if approved by your Board, would amend the ordinance, this gives the cities the confirmation that the County is not requiring the cities to collect the fee for the County during the extended temporary suspension period.

The recommended Ordinance Amendment also states that it will not otherwise affect Chapter 17.90, or the authority for any action taken or to be taken under it, including, but not limited to, the County's expenditure or other use at any time of any fees that have been collected.

Extending the suspension of fee collection under Chapter 17.90 essentially will cause the County to continue to make up the difference in funding by placing the burden of providing needed facilities due to new development on the taxpayers of the County by requiring additional funds from other funding priorities. However, facilities impact fees do not pay for County services.

NOTICES:

Notice of the proposed Ordinance Amendment has been published in the Fresno Business Journal on October 20, 2017. Staff also provided courtesy notice to the 15 cities within Fresno County, the Building Industry Association of Fresno and Madera Counties, and the Fresno County Farm Bureau.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):

The proposed Ordinance Amendment is exempt from CEQA. The Board's CEQA findings are further set forth in the proposed Ordinance Amendment. Specifically, the Ordinance Amendment does not have the potential to cause a significant effect on the environment because it does not authorize new development or require it. The proposed Ordinance Amendment is not a "project" since it only relates to a governmental funding mechanism or fiscal activities not involving a specific project (see CEQA Guidelines, sec. 15378(b)(4)); and the proposed Ordinance Amendment is exempt from review because it only relates to rates or charges for obtaining funding for capital projects to maintain County services within existing service areas (Cal. Public Resources Code sec 21080(b)(8), and CEQA Guidelines sec. 15061, and sec. 15273(a)(4).

OTHER REVIEWING AGENCIES:

A copy of this agenda item has been made available to the 15 cities of the County of Fresno, the Building Industry Association of Fresno and Madera Counties, and the Fresno County Farm Bureau

REFERENCE MATERIAL:

BAI #12, October 17, 2017
BAI #14, September 12, 2017
BAI #10, June 7, 2016
BAI #47, May 19, 2015

BAI #50, July 10, 2012
BAI #44, November 9, 2010

ATTACHMENTS INCLUDED AND/OR ON FILE:

Ordinance

CAO ANALYST:

John Hays