



Board Agenda Item 8

DATE: October 22, 2019

TO: Board of Supervisors

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

SUBJECT: Development Fees within the Sphere of Influence of the City of Clovis

RECOMMENDED ACTION(S):

Conduct first hearing and take action to:

- 1. Approve proposed amendments to Fresno County Ordinance Code, Title 17 - Divisions of Land, Chapter 17.92 - Clovis Development Fees Applicable within the Sphere of Influence of the City of Clovis, and a Schedule of Fees;**
- 2. Set the second hearing for December 10, 2019 and waive reading of Ordinance in its entirety;**
- 3. Designate County Counsel to prepare a fair and adequate summary of the proposed Ordinance; and**
- 4. Direct the Clerk of the Board to post and publish the requested summary in accordance with Government Code, Section 25124(b)(1).**

Approval of the recommended actions would be the first step to enable the County to execute Sections 4.1.3 and 4.1.4 of Article IV to fulfill its present obligations under the County's 2017 Amended and Restated Memorandum of Understanding (MOU) with the City of Clovis (City). The MOU provides that the County is to charge City development fees for any discretionary development applications approved by the County within the City's Sphere of Influence (SOI). If your Board approves the recommended ordinance amendments, individuals submitting discretionary development applications for projects within the SOI will be subject to the revised development fees, similar to those assessed in the City Limits. This item pertains to locations in Districts 2, 3 and 5.

ALTERNATIVE ACTION(S):

Your Board can reject the recommended actions if it is unable to make the required Findings and/or your Board may direct Department of Public Works and Planning staff to return to the City to request additional information or analysis.

FISCAL IMPACT:

There is no increase in Net County Cost associated with the recommended actions. The development fees collected are used by the City to fund construction of facilities needed to serve new development such as sewer, water, community sanitation infrastructure, parks, major streets, fire department facilities, police

department facilities, and the undergrounding of overhead utilities. The fees will provide a source of funding to the County for a library in the City that is necessary to serve new development. Under the County's current discretionary application process, all discretionary proposals located within the City's SOI are routed to the City for review and comment. The City has the opportunity to identify applicable City fees associated with the development proposal during their review. The information is then provided to the project applicant for payment of fees directly to the City. The County requires evidence of payment prior to the issuance of a building permit or at the time of final map approval.

DISCUSSION:

Background

Since 1990, the County and City have been parties to various versions of the MOU, which addresses patterns of urban development within the City's SOI. Currently, Chapter 17.92 of the County Ordinance Code implements one of the provisions of the MOU, requiring the County to impose City development fees on discretionary projects in the City SOI. In 2017, the MOU was updated once again.

Sections 4.1.3 and 4.1.5 of the MOU require that the County charge City development fees for all discretionary development projects within the City's SOI. Sections 4.1.3 and 4.1.4 collectively require that the City (1) conduct a public hearing, (2) pass a resolution describing the type, amount, and purpose of the City fees to be collected by the County, and (3) submit the adopted resolution to the County along with appropriate supporting documentation and a draft fee ordinance. The recommended actions, if approved by your Board, would be the first step to enable the County to fulfill its present obligations under the MOU as related to the adoption of City development fees. In July 2018, the City increased its development fees, resulting in a similar request for Board adoption on December 4, 2018.

Required Findings

Approval of the recommended actions constitutes a step in the process of imposing development fees. Under the Public Facilities Fee Ordinance (Fresno County Code of Ordinances, Chapter 17.88) and the Mitigation Fee Act (Government Code section 66000, *et seq.*), for your Board to impose fees on development projects, it is required to find as follows:

1. **Need for Infrastructure:** That there is a reasonable relationship between the fee's use (e.g. the construction or improvement of infrastructure) and the type of development for which the fee is charged (e.g. one requiring additional infrastructure);
2. **Nexus:** That there is a reasonable relationship between the need for the improvements and the impacts of the development;
3. **Reasonable Estimate:** That the cost estimates are reasonable cost estimates for constructing the improvements, and the fees expected to be generated by the development do not exceed the total costs of constructing the improvements; and
4. **No Excessive Fees:** That the amount of the fee will not exceed the estimated reasonable cost of the public facilities or portion of the public facilities attributable to the development on which the fee is imposed.

Per its obligations under Section 4.1.4 of the 2017 MOU, the City adopted and provided Resolution No. 19-91, the Master Development Fee Schedule, dated August 14, 2019, and documentation to assist your Board in making the above findings. (Attachment A.) The Resolution provides that the City Council found the Schedule of Fees to satisfy relevant State law (including the Mitigation Fee Act) and the MOU.

Basis for Fees

The proposed fees are to for use by the City for the improvement of infrastructure to service its SOI. The

County and City currently follow this process for existing fees applicable to discretionary development applications in the Clovis SOI. As such, your Board has consistently found a need for this infrastructure and a nexus between that need and the impacts of development in the SOI. What has changed since the last update of Chapter 17.92 is the City's estimate for the cost of the infrastructure needs and the recommended fee amount.

In April 2019, City staff commenced public meetings for its fee re-evaluation. According to the City, meetings were held with the Building Industry Association, Fresno Metropolitan Flood Control District, Clovis Unified School District, and the local commercial and residential development community. The July 1, 2019 City Council Report, included as Attachment A with City Council Resolution No. 19-91 and Ordinance 19-10, further describes the City's outreach process. The fiscal year changes to individual fee types are varied, and summarized below:

- Residential increases range from 9% to 11% and generally increase with density.
- Non-residential increases range from 8% to 12% depending on land use and location.
- Police Fee increase from current \$100 per unit to \$726 per unit.
- Parks Fee increase from current \$3,431 per residential unit to \$3,771 per residential unit.

According to City staff, the primary contributing factors for the increases were the Construction Cost Index (CCI), the Police Fee, and the Parks Fee. City staff noted that for the Police Fee, the previous rate was not based on a study, and had been the same amount for approximately 20 years. The updated rate represents a 626% increase (\$100 per unit to \$726 per unit) and is intended to provide equipment and office space to allow for one additional officer per 1,000 new residents. The Parks fee reflects an updated cost evaluation increase in park facility and land costs representing an approximately 10% rate increase per year for three years. City staff stated that in consideration of the current market and the potential for fluctuating land costs, staff proposed a three-year implementation.

Per the MOU, these will fees apply only to discretionary development applications, which are defined in the MOU as General Plan Amendments, Rezonings, Tentative Tract Maps, Tentative Parcel Maps, Conditional Use Permits, Director Review and Approvals, and Variance Applications. Existing uses or uses permitted as a matter of right (agricultural, rural residential, and associated uses) would continue to be permitted without being subjected to these fees.

City staff will be available to answer any questions from the Board.

A copy of Chapter 17.92 with deletions noted in strikethrough text and new text noted in bold and underlined is included as Attachment B.

Mitigation Fee Act Procedural Compliance

California Government Code, Section 66017 allows the legislative body to impose a development fee 60 days after holding an open and public meeting. If your Board approves the recommended actions and adopts the proposed ordinance following a second reading, the amended fees will become effective 60 days following adoption.

The County published notice of the present hearing in the Fresno Business Journal on September 20, 2019, and, if your Board approves the recommended actions, will publish notice of the second reading on November 8, 2019.

CEQA Compliance

Department staff has determined that approval of the proposed ordinance is exempt from the requirements of the California Environmental Property Act (CEQA), as there is no possibility that the proposed ordinance

will have a significant impact on the environment. (See CEQA Guidelines, section 15061, subdivision (b)(3).) Subsequent discretionary projects subject to the amended fees in the proposed ordinance will nevertheless be reviewed under CEQA as necessary based on the specifics of those projects.

OTHER REVIEWING AGENCIES:

A copy of this Board Report, including the proposed Ordinance, was provided to the City of Clovis.

REFERENCE MATERIAL:

BAI #46, January 8, 2019
BAI #50, June 6, 2017
BAI #65, September 22, 2015
BAI #29, April 29, 2014
BAI #43, December 6, 2011
BAI #36, October 21, 2008
BAI #18, September 11, 2007
BAI #22, September 12, 2006
BAI #20, August 16, 2005

ATTACHMENTS INCLUDED AND/OR ON FILE:

Attachments A-B
Ordinance
On file with Clerk - Ordinance Summary

CAO ANALYST:

Sonia M. De La Rosa