



STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: PAUL RODRIGUES, CPA, FINANCE DIRECTOR

DATE: MARCH 2, 2021

SUBJECT: REVIEW OF THE CITY'S ANNUAL REPORT ON DEVELOPMENT FEES FOR THE FISCAL YEAR ENDING JUNE 30, 2020 IN COMPLIANCE WITH THE REPORTING REQUIREMENTS OF SECTION 66006 OF THE CALIFORNIA GOVERNMENT CODE (AB 1600)

RECOMMENDATION

It is recommended that, subject to any comments or questions, the City Council adopt the attached Resolution finding there is a reasonable relationship between current needs for existing development impact fees and the purposes for which they were originally collected and authorizing internal accounting adjustments as noted.

BACKGROUND

In 1989, Section 66000 et seq. of the *California Government Code* became effective. When passed in 1987, this section was known as AB 1600. When the Legislature passed AB 1600, it added a new chapter to the *California Government Code* on impact fees for development projects. The chapter sets forth a number of requirements that local agencies must follow if they are to extract impact fees from developers to defray the cost of construction of public facilities or expanded public service obligations related to development projects. Section 66006 mandates the reporting requirements on fees that the local agency must adhere to each fiscal year.

Through policies contained within the General Plan, the City of Clayton has established the nexus between the development and the capital improvements necessary to mitigate the effects of the development and approved impact fees to fund the mitigation measures. Further implementation of the impact fees is established in the *Clayton Municipal Code* sections related to each fee type.

DISCUSSION

Section 66006 (b)(1) of the *California Government Code* requires each local agency to make public a status report on its development impact fees within 180 days after the last day of each fiscal year.

Section 66006 (2) also requires each local legislative body to review the annual report on development fees at a public meeting not earlier than 15 days after the information is made available to the public. This year the City of Clayton made its annual report on development fees available to the public on February 16, 2021.

The AB 1600 report consists of a brief description of the fee type in the account or fund, the amount of the fee, the beginning and ending balance of the account or fund, the amount of fees collected and the interest earned. If there are funds in the accounts then there is also a requirement to make a finding that there is a reasonable relationship between current needs for and the purposes for which they were originally collected.

Development impact fees become due at different times through the course of a development project. Some of the impact fees are due at time of final map, or building permit issuance; others not until final occupancy. As outlined in Attachment 4, the City collected no applicable impact fees in FY 2019-20. Interest earnings are apportioned to the Development Impact Fee Fund (No. 304) through the quarterly city-wide interest allocation process. Within the Development Impact Fee Fund, quarterly interest allocations are further divided to each development impact fee account based on proportional fee account balances as of the end of the corresponding quarter.

In Clayton, AB 1600 development impact fees are collected for the following purposes:

- Childcare Facilities
- Offsite Arterial Street Improvements
- Fire Protection
- Community Facilities
- Parkland Dedication

The summary of the balances of the various fees are listed on Attachment 2. A ten (10) year income statement summary for each of the City's impact fees is presented on Attachment 3, which provides a snapshot of the sources of funds and balances in recent history. Detailed expenditure and revenue reports for each fee the City collected is provided in Attachment 4 for further analysis of specific transactions. Attachment 5 is a copy of the public notice made available on the City's website and community public posting locations on February 16, 2021, 15 days prior the public meeting where the AB 1600 report will be reviewed by the City Council. A schedule of all City-imposed development impact fees is shown in Attachment 6 disclosing the fee formulas, citing the authoritative section establishing each fee, and the specific development phase when each fee is due to the City.

The following is a summary of the eight (8) reporting requirements on development impact fees an imposing local agency must adhere to each fiscal year:

1. Create separate capital facilities funds or accounts for each improvement funded with impact fees (Government Code Section 66006(a)).
2. Remit all interest income earned by the fees to the same fund; interest income must be spent solely on the purpose for which the fee was originally collected (Section 66006(a)).

3. Within 180 days after the close of each fiscal year, prepare a public report concerning each impact fee fund. Such report must include the fund's beginning and ending balance for the fiscal year, amount of fees and interest deposited into the fund for the fiscal year, and a description of each expenditure from the fund for that year, including identification of the improvement being funded (Section 66006(b)).
4. Review the report at a public meeting not less than fifteen (15) days after the report is made available to the public (Section 66006(b)(2)).
5. If fees remain unexpended or uncommitted five (5) years after being collected, the local agency is to make a finding that there remains a reasonable relationship between the current need for the fees and the purposes for which they were originally collected (Section 66001(d)).
6. Refund to current owner of lots or project developer any fees, with accrued interest, for which continued need cannot be demonstrated (Section 66001(e)).
7. A local agency must not co-mingle fees with any other revenue, except for temporary investment purposes (Section 66006(a)).
8. A local agency may not spend impact fees for maintenance or operation of improvements funded with impact fees (Section 65913.8).

The City is in compliance with the eight reporting requirements outlined above. The following impact fee accounts subject to the AB 1600 compliance requirements contain receipts that have not been fully expended by the City for eligible purposes in a timeframe exceeding five (5) years: Childcare Facility, Offsite Arterial Improvement, and Fire Protection fees. Compliance is obtained with criteria number 5 above by adopting a Resolution that makes a finding that there remains a reasonable relationship between the current need for the fees and the purpose for which they were originally proposed.

1. *Child Care Facilities*

On April 20, 1988 the City Council adopted Ordinance No. 252 establishing the child care facilities development impact fee. The purpose of this development impact fee is to enable the development of facilities sufficient to meet existing and future preschool and school age child care needs. Under this law eligible facilities included building, equipment, and any accessory structures, programs and personnel licensed by the State for direct child care services providing but not limited to shelter, food, educational, and play opportunities for less than 24 hours per day. During the 1990s some funds were provided to the Contra Costa Child Care Council for material needs of programs and to provide outreach to Clayton residents as to home and other child care opportunities and programs. The Oakhurst Development did not pay into these funds as it was established after Oakhurst was approved.

As of June 30, 2020, there was a fund balance (including interest) of \$49,838 available. During FY 2019-20 the City allocated approximately \$1,017 in interest to the fund. As a result of the relatively small fund balance, extended periods are necessary to achieve sufficient resources to finance the costs for child care related facilities or improvements. Accordingly, a need exists

to continue the ongoing collection of this impact fee as well as the preservation of unspent balances for expected future project needs as outlined previously.

2. Parkland Dedication

On July 17, 1985 the City Council adopted the General Plan, which among other requirements, established a parkland dedication impact fee program as granted by the Subdivision Map Act of the State of California (Quimby Act). Under this law, the general standard established is that it is found and determined that the public interest, convenience, health, welfare and safety require that five (5) acres of property for each one thousand persons residing within the City be devoted to park and recreational purposes.

As of June 30, 2020, there was a fund balance (including interest) of \$24,412 available. A total of \$498 in interest was allocated to the parkland dedication account in FY 2019-20. The City's most recently adopted Five-Year Capital Improvement Program outlines park and recreation area construction or expansion projects with unfunded costs totaling \$5,297,575 for which funds may be eligible for use. Accordingly, a need exists to continue the ongoing collection of this impact fee as well as the preservation of unspent balances for expected future project needs as outlined previously.

3. Offsite Arterial

On October 7, 1981 the City Council adopted Resolution No. 36-81 establishing a policy for offsite arterial street improvement impact fees for new residential developments. The policy established a nexus between development and increased traffic congestion on the City's major arterial streets. The purpose of this development impact fee is to assist the City in alleviating traffic congestion generated by each new development on the City's major arterial streets. Currently, the City's major arterial streets eligible for improvements to be financed by offsite arterial development impact fees include: Clayton Road, Oakhurst Boulevard, Marsh Creek Road, and Pine Hollow Road.

As of June 30, 2020, there was a fund balance (including interest) of \$223,514 available. A total of \$4,561 in interest was allocated to the offsite arterial account in FY 2019-20.

The collection of offsite arterial development impact fees pertaining to the following projects has not been expended in over five years as of June 30, 2020: Pine Hollow Estates, Mitchell Creek, Longs, Flora Square, Village Market, and Diablo Estates. These unspent fees may be still be used for the East Marsh Creek Road Traffic Signal Project (CIP No. 10396), with unfunded costs estimated to be \$510,000. As this project is currently unfunded, and as the balance of unspent reserves in the offsite arterial impact fee account is less than this project's total estimated costs, more time is needed to build up sufficient financing for the project. Additional gap funding for this project may be ultimately derived from other sources including Measure J, HUTA and RMRA gas taxes, or federal/state/regional grants. Despite sufficient funding not been currently available for this project, the City must have adequate funds on hand to leverage and meet "local matching" requirements should state, federal or other grants become available. Having matching funds also puts the City in a competitive position to be awarded grant funds should they become available. Accordingly, a need exists to continue the ongoing collection of

this impact fee as well as the preservation of unspent balances for expected future project needs as outlined previously.

4. Fire Protection

In 1987 the City Council adopted Ordinance No. 239 establishing the fire district development impact fee based on a report determining facility and equipment needs for the entire fire district (District). Facility cost and benefits were identified for incorporated and unincorporated areas and based on the assessment, it was determined that the City's contribution would be \$830,700 to the District. The purpose of this impact fee is to provide a method for financing fire protection facilities required by the goals and policies of the General Plan and necessitated by the needs of new construction and development for adequate fire protection facilities and services. All such fees collected shall only be used for the purpose of establishing or improving fire stations and purchase of equipment dedicated to the District's service area, or portions thereof.

As of June 30, 2020, there was a fund balance (including interest) of \$11,062 available. A total of \$226 in interest was allocated to the fire protection development impact fee account in FY 2019-20.

In FY 1999-00, the City's former Redevelopment Agency (RDA) provided a loan of \$350,000 to help finance the construction of the District's fire station located in Clayton. Periodically, as outlined in Attachment 4, fire protection fees collected were used to repay portions of this City-RDA loan. However, with the state-imposed dissolution of all California RDAs pursuant to AB 1x26, the loan was effectively dissolved along with the dissolution of the City's RDA. Prospectively, fire protection development fees collected will be used for any eligible unmet local capital needs of the District to mitigate the impact of new construction service demands. Accordingly, a need exists to continue the ongoing collection of this impact fee as well as the preservation of unspent balances for expected future project needs as outlined previously.

5. Community Facilities

In 1990 the City Council adopted Ordinance No. 282 establishing the community facilities development impact. The purpose of this impact fee is to implement the goals and objectives of the City's Capital Improvement Program (CIP) and to mitigate the unfavorable impacts attributed to new development by helping finance the construction of certain necessary public facilities.

As of June 30, 2020, there was no fund balance available. A total of \$24 in interest was allocated to the community facilities development impact fee account in FY 2019-20. These funds are limited to improvements of City-owned facilities (buildings and associated grounds). These and future funds are restricted for future new capital projects such as the Keller House renovation, Endeavor Hall, Clayton Community Library, City Hall, or public works corporation yard improvements or upgrades. The beginning fund balance of \$4,294 plus 2019-20 interest earnings, were used to help fund the Keller Roof Repair Project in the amount of \$4,318, leaving no remaining fund balance.

SUMMARY

To comply with AB 1600, the City Council must make findings there is a reasonable relationship between the current need for the fees and the purposes for which they were charged as demonstrated by programming of fees in the CIP and City operational budgets. It is important these findings can be and are made to ensure continuance of funding resources for these important programs.

Although AB 1600 requires fees collected from developers be expended within five years, the law, as noted previously, also allows exceptions. Exceptions are provided in recognition that some projects require an extended planning period. There can be a number of reasons for reasonable exceptions including project costs being of a magnitude necessitating a greater than five year timeframe to accumulate sufficient funds or necessary matching funds not being available within the five-year timeframe. The City has referenced specific projects herein demonstrating there remains a nexus between current needs of unspent development impact fees and the purposes for which they were originally established. Specific projects referenced are included in the current (2020-21 – 2024-25) City Council adopted Five-Year Capital Improvement Program.

As noted previously, as mandated by AB 1600, within 180 days of the close of the fiscal year the City must publicize an annual report on development impact fees. This annual report shall disclose the beginning and ending balance of each development impact fee account for the fiscal year, as well total interest allocations, expenditures, and new development impact fee revenues.

Not less than 15 days after the information is made public, the City Council is required to review this information at its next regularly scheduled public meeting. On February 16, 2021 a public notice was posted on the City's website and to the community posting boards outlining the annual AB 1600 report had been publicized on the City's website as well as was available for review at City Hall. This public notice also specified the annual AB 1600 report would be placed on the March 2, 2021 City Council agenda for review and consideration for acceptance, in compliance with the reporting requirements.

FISCAL IMPACT

The acceptance of this report and its attachments, including the attached Resolution, has no direct fiscal or budgetary impact to the City of Clayton, provided the collected development impact fees are retained.

Attachments:

1. Resolution No __-2020
2. Fund Balance Summary – AB 1600 Development Impact Fees
3. 10 Year Consolidated Income Statements – AB 1600 Developer Impact Fee
4. Revenue/Expenditure Detail – AB 1600 Development Impact Fees
5. Public Notice of AB 1600 Annual Report availability
6. Development Impact Fee Listing