

CITY OF HAYWARD
AGENDA REPORT

AGENDA DATE 11/20/01
AGENDA ITEM 4
WORK SESSION ITEM _____

TO: Mayor and City Council
FROM: Director of Finance and Internal Services
SUBJECT: Adoption of a Resolution Accepting the Report and Adopting Findings Related to Fees Collected for Development Projects That are Subject to the Requirements of the Mitigation Fee Act

RECOMMENDATION:

It is recommended that the City Council adopt the attached resolution regarding the City's compliance with certain provisions of the Mitigation Fee Act, sometimes referred to as AB 1600.

BACKGROUND:

It is common for local agencies to charge fees on new development to fund construction of capital facilities that will serve the development. The AB 1600 (Cortese) portion of the Mitigation Fee Act applies to fees charged in connection with the approval of development projects to defray cost of public facilities. It was enacted by the State Legislature in 1987, and applies to developer fees established, increased, or imposed on or after January 1, 1989.

In order to comply with the Mitigation Fee Act, the City must follow four primary requirements:

1. Make certain determinations regarding the purpose and use of a fee and establish a "nexus" or connection between a development project (or class of project) and the public improvement being financed with the fee;
2. Segregate fee revenue from the General Fund in order to avoid commingling of capital facilities fees and general funds;
3. For fees that have been in the possession of the City for five years or more, and for which the dollars have not been spent or committed to a project, the City must make findings each fiscal year describing the continuing need for the money; and
4. Refund any fees, with interest, for developer deposits for which the findings noted above cannot be made.

The City has complied with numbers 1 and 2 above from the outset since the funds collected are necessary to fund the cost of improvements which benefit or will benefit the subject

development; the attached report enumerates compliance with numbers 3 and 4 for fiscal year 2000-01.

Findings have been made with respect to the portion of any fees remaining unexpended or uncommitted to a project. The findings identify the public purpose for which a particular fee was received, indicate the relationship between the fee and the purpose, and show the continuing need for the funds if the need exists. Refunds of the uncommitted or unexpended portion of fees are to be provided to the depositor for projects for which such need cannot be demonstrated.

Exhibit A to this report is a record of the fees received by the City since January 1989, currently on deposit, in connection with development projects that involve the construction or maintenance of public facilities (street improvements, utility relocations, maintenance districts) and are governed by AB 1600. Included for each applicable deposit are the name of the project and the depositor, the date and amount of the original deposit, the current balance in the deposit account, and a summary of the findings for each deposit.

Exhibit B provides detailed information for each of the summary findings listed on Exhibit A. The narrative includes the specific public improvements for which deposits were received by the City, the relationship between the developer's project and the public improvements, and an explanation of why the funds should be retained after five years if that is the case.

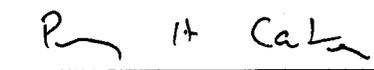
The Council is requested to accept the information regarding AB 1600 deposits contained in Exhibits A and B, and adopt findings as to those funds that remain unexpended five or more years after deposit.

The information contained in the Mitigation Fee Act compliance report has been provided to the Building Industry Association and the affected developers.

Prepared by:


Denese Rohrer, Budget Administrator

Recommended by:


Perry H. Carter, Director of Finance & Internal Services

Approved by:


Jesús Armas, City Manager

Attachments: Exhibit A – Record of Fees
Exhibit B – Summary Finding Detail

CITY OF HAYWARD

Report of Findings in Compliance with Mitigation Fee Act for Fiscal Year 2000-01

DATE OF DEPOSIT	ORIGINAL DEPOSIT	NAME OF DEPOSITOR	BALANCE AS OF 6/30/00	NEW DEPOSITS	INTEREST	EXPEND IN 2000-01	REFUNDED AS OF 6/30/01	BALANCE AS OF 6/30/01	SUMMARY FINDING (Please refer to Exhibit B for detailed information)
7/13/92	2,340	The Plymouth Group	3,673	0	182	0	0	3,855	Need for benefit district still exists → Retain deposit.
11/19/92	3,780	The Plymouth Group	4,382	0	217	0	0	4,599	Need for benefit district still exists → Retain deposit.
9/17/92	1,620	Curtis S. Petterson	2,454	0	122	0	0	2,576	Need for benefit district still exists → Retain deposit.
3/25/94	3,780	The Plymouth Group	5,333	0	264	0	0	5,597	Need for benefit district still exists → Retain deposit.
3/25/95	3,240	The Plymouth Group	4,611	0	228	0	0	4,839	Need for benefit district still exists → Retain deposit.
6/9/95	7,920	The Plymouth Group	10,648	0	527	0	0	11,175	Need for benefit district still exists → Retain deposit.
4/01/90	17,263	Clarendon Hills Investors Inc.	33,516	0	1,660	0	0	35,176	Need for street extension still exists → Retain deposit.

Exhibit A

2000-01 PROJECT DESCRIPTIONS AND PURPOSES FOR AB1600 DEPOSITS

This information corresponds to the projects listed on Exhibit A.

1. **The Plymouth Group-Tract 6078 (2280-006)**: The deposit represents the estimated fee the subdivider is responsible to pay toward a benefit district that will be established to relocate utility poles on Mohr Drive. Completion is anticipated to occur within the next five years. The funds will be retained in the account until the benefit district is formed, at which time the monies will be transferred to the benefit district.
2. **Sunnyside Commons-Tract 6391 (2280-008)**: The deposit represents the estimated fee the subdivider is responsible to pay toward a benefit district that will be established to relocate utility poles on Mohr Drive. Completion is expected within the next five years. The funds will be retained in the account until the benefit district is formed, at which time the monies will be transferred to the benefit district.
3. **Sunnyside Commons II-Tract 6260 (2280-009)**: The deposit represents the estimated fee the subdivider is responsible to pay toward a benefit district that will be established to relocate utility poles on Mohr Drive. Completion is expected within the next five years. The funds will remain in the account until the benefit district is formed, at which time the monies will be transferred to the benefit district.
4. **Sunnyside Commons JV-Tract 6645 (2280-015)**: The deposit represents the estimated fee the subdivider is responsible to pay toward a benefit district that will be established to relocate utility poles along Mohr Drive. Completion is expected within the next five years. The funds will be retained in the account until the benefit district is formed, at which time the monies will be transferred to the benefit district.
5. **Sunnyside Commons JV-Tract 6646 (2280-016)**: The deposit represents the estimated fee the subdivider is responsible to pay toward a benefit district that will be established to relocate utility poles along Mohr Drive. Completion is expected within the next five years. The funds will be retained in the account until the benefit district is formed, at which time the monies will be transferred to the benefit district.
6. **Sunnyside Commons Joint Venture-Tract 6713 (2280-028)**: This project is the construction of Phase VI (21 lots) of an approved 117 single-family lot subdivision. The deposit represents the estimated fee the subdivider is responsible to pay toward a benefit district that will be established to relocated utility poles along Mohr Drive. Completion is expected within the next five years. The funds will be retained until the benefit district has been formed, at which time the monies will be transferred to the benefit district.

7. **Clarendon Hills-Tract 5277 (2311-027)**: The deposit was collected in connection with a 285 condominium project (Phase I of a 488 unit condominium subdivision). The developer was required to deposit funds equal to the subdivision's proportionate share of the estimated cost for the extension of Vanderbilt Street to Overhill Drive. The funds will be retained until used for the extension, which is dependent upon future development.
8. **Bailey Ranch - Tract 6169 (2281-001)**: The deposit is related to the subdivision of 391 ± acres into 135 single-family lots. The deposit represents the proportionate share the subdivider is responsible to pay towards land acquisition at the 1285 reservoir to accommodate a future second tank. The funds will be retained in the account until the land has been acquired.
9. **Bailey Ranch – Tract 6169 (2281-002)**: The deposit is related to the subdivision of 391 ± acres into 135 single-family lots. The deposit represents the subdivider's proportionate share of the Fairview Traffic Calming Study and related improvements per the study. The funds will be retained until the study and the improvements are complete.
10. **Bailey Ranch – Tract 6169 (2281-003)**: The deposit is related to the subdivision of 391 ± acres into 135 single-family lots. The deposit represents the proportionate share the subdivider is responsible to pay towards required traffic improvements. The funds will be retained until the improvements are complete.
11. **Bailey Ranch – Tract 6169 (2281-004)**: The deposit is related to the subdivision of 391 ± acres into 135 single-family lots. The deposit represents the subdividers pro-rata share of the water system improvements identified in the Preliminary Analysis of Water Facilities Proposed for the Blue Rock Country Club, Walpert Ridge Specific Plan Area. The funds will be retained until the improvements are complete.
12. **Bailey Ranch – Tract 6169 (2281-005)**: The deposit is related to the subdivision of 391 ± acres into 135 single-family lots. The deposit represents the proportionate share the subdivider is responsible to pay towards required Scenario 3 traffic improvements. The funds will be retained until the improvements are complete.
13. **Bailey Ranch - Tract 6169 (2281-006)**: The deposit is related to the subdivision of 391± acres into 135 single family homes. The deposit represents the requirement for all Walpert Ridge developers to provide new fire equipment and modifications to Fire Station #5. The developer will be reimbursed as future development occurs on Walpert Ridge. The funds on deposit related to the fire station modifications were transferred to a Capital Improvement Program project effective July 2001, as the developer contribution. Likewise, the funds for the purchase of the fire equipment were transferred to the Equipment Replacement Fund at the same time.
14. **Garin Crest – Tract 6373 (2280-216)**: The deposit is related to off-site drainage improvements for the Briargate Way basins as required per conditions of approval no. 30 of Tract 6994. The deposit will be retained until these improvements are complete.

DRAFT

HAYWARD CITY COUNCIL

RESOLUTION NO. _____

Introduced by Council Member _____

**RESOLUTION ACCEPTING THE REPORT AND ADOPTING
FINDINGS RELATED TO FEES COLLECTED FOR THE
DEVELOPMENT PROJECTS SUBJECT TO THE
REQUIREMENTS OF THE MITIGATION FEE ACT**

WHEREAS, Government Code section 66006, part of the Mitigation Fee Act, which is sometimes referred to as Assembly Bill 1600, requires the City to make findings each fiscal year describing the continuing need to retain fees collected from developers but remaining unexpended and/or uncommitted after a period of five years; and

WHEREAS, the funds maintained for such period of time must be refunded if the requisite findings cannot be made; and

WHEREAS, the City has unexpended fees which it needs to retain for future expenditures.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward hereby accepts the report of the Acting Director of Finance and Internal Services dated November 20, 2001, and adopts the findings contained therein, copies of which are attached hereto as Exhibit "A" and Exhibit "B".

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2001

ADOPTED BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward