



CITY OF HAYWARD
AGENDA REPORT

AGENDA DATE 12/07/99
AGENDA ITEM 3
WORK SESSION ITEM _____

TO: Mayor and City Council
FROM: Director of Finance & 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 1998-99.

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 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.

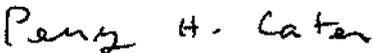
The Council is requested to accept the information regarding AB 1600 deposits contained in Exhibits A and B, and adopt findings as to those funds that remain unexpended five or more years after deposit.

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

11/09/99

CITY OF HAYWARD

Report of Findings in Compliance with Mitigation Fee Act for Fiscal Year 1998-99

	APPLICABLE ACCOUNTS- PROJECT NAME	DATE OF DEPOSIT	ORIGINAL DEPOSIT	NAME OF DEPOSITOR	BALANCE AS OF 6/30/98	NEW DEPOSITS	INTEREST	EXPENDED IN 1998-99	REFUNDED AS OF 6/30/99	BALANCE AS OF 6/30/99	SUMMARY FINDING (Please refer to Exhibit B for detailed information)
1	The Plymouth Group- Tract 6078 (2280-006)	7/13/92	2,340	The Plymouth Group	3,297	0	190	0	0	3,487	Need for benefit district still exists → Retain deposit.
2	Sunnyside Commons- Tract 6391 (2280-008)	11/19/92	3,780	The Plymouth Group	3,933	0	226	0	0	4,159	Need for benefit district still exists → Retain deposit.
3	Sunnyside Commons II- Tract 6260 (2280-009)	9/17/92	1,620	Curtis S. Pettersen	2,203	0	127	0	0	2,330	Need for benefit district still exists → Retain deposit.
4	Sunnyside Commons JV- Tract 6645 (2280-015)	3/25/94	3,780	The Plymouth Group	4,828	0	277	43	0	5,062	Need for benefit district still exists → Retain deposit.
5	Sunnyside Commons JV- Tract 6646 (2280-016)	3/25/95	3,240	The Plymouth Group	4,139	0	238		0	4,377	Need for benefit district still exists → Retain deposit.
6	Sunnyside Commons Joint Venture-Tract 6713 (2280-028)	6/9/95	7,920	The Plymouth Group	9,557	0	551	0	0	10,108	Need for benefit district still exists → Retain deposit.
7	Herb Keith, Site Plan Review 88-9 (2328)	3/22/89	17,360	Herbert Keith	33,275	0	1,916	0	0	35,191	Need for Hayward Blvd./Civic Avenue signal still exists → Retain deposit.
8	Clarendon Hills- Tract 5277 (2337)	4/01/90	17,263	Clarendon Hills Investors Inc.	30,083	0	1,733	0	0	31,816	Need for street extension still exists → Retain deposit.

	APPLICABLE ACCOUNTS—PROJECT NAME	DATE OF DEPOSIT	ORIGINAL DEPOSIT	NAME OF DEPOSITOR	BALANCE AS OF 6/30/98	NEW DEPOSITS	INTEREST	EXPENDED IN 1998-99	REFUNDED AS OF 6/30/99	BALANCE AS OF 6/30/99	SUMMARY FINDING (Please refer to Exhibit B for detailed information)
						0		0	0		
9	Grandview Estates- Tract 6011 (2341)	6/19/90	26,500	Western of San Diego Fund Contr.	44,725	0	2,576	0	0	47,301	Need for completion of cul-de-sac still exists → Retain deposit.
10	Clearbrook Partnership- Tract 5993/ 6173 (2345)	5/10/95	327,000	Clearbrook Partnership	7,174	0	413	0	0	7,587	Street improvements have been completed → Remaining deposit to be refunded.
11	Sanwa Bank Tract 4609 (2399)	7/16/93	94000	Sanwa Bank	7,559	0	435	0	0	7,994	Street improvements have been completed. → Remaining deposit to be refunded.
12	Bailey Ranch Tract 6169 (2262-001)	5/19/99	92,048	Signature Properties	0	92,048	584	0	0	92,632	Pro-rata share of land acquisition at 1285 reservoir to accommodate a future 2 nd tank → Retain deposit
13	Bailey Ranch Tract 6169 (2262-002)	5/19/99	78,500	Signature Properties	0	78,500	498	0	0	78,998	Pro-rata share of Fairview traffic calming study & related improvements per the study → Retain deposit
14	Bailey Ranch Tract 6169 (2262-003)	5/19/99	269,543	Signature Properties	0	269,543	1,710	0	0	271,253	Pro-rata share of required traffic improvements → Retain deposit
15	Bailey Ranch Tract 6169 (2262-004)	5/19/99	193,980	Signature Properties	0	193,980	1,230	0	0	195,210	Pro-rata share of water system improvements → Retain deposit
	TOTALS		1,138,874		150,773	634,071	12,704	43	0	797,505	

1998-99 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. **Herb Keith, Site Plan Review 88-9 (2328)**: The deposit was collected in connection with the construction of the University Plaza shopping center at the southwest corner of Hayward Boulevard and Civic Avenue. The deposit is the project's proportionate share of the estimated cost of the installation of a traffic signal at Hayward Boulevard and Civic Avenue. The funds will be retained in the account for installation of the traffic signal. According to the approved CIP budget, the traffic signal is to be installed in 2000-01. Walpert Ridge projects which are approved are required to commit funds toward the improvement.

8. **Clarendon Hills-Tract 5277 (2337)**: 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.

9. **Grandview Estates-Tract 6011 (2341)**: The deposit is related to the subdivision of an 8.2 acre parcel into 31 single-family lots. A condition of approval for the project required a cul-de-sac to be constructed at the end of Grandview Avenue. The purpose of the deposit is to fund that construction. The Fire Department has determined, in lieu of the cul-de-sac, an emergency vehicle access will be provided between Grandview Avenue and Pappas Place. The funds will be utilized to improve this emergency vehicle access.

10. **Clearbrook Partnership-Tract 5993 & 6173 (2345)**: The project for which the deposit was collected is the subdivision of a 38.4 acre parcel into 64 single-family lots on Garin Avenue. The project for which the deposit was originally received, the extension of Alquire Parkway, has been canceled and a new project planned. The new project is the realignment of Garin Avenue and the widening of Vanderbilt Street. These alternative traffic improvements have been addressed through an agreement with the property owner. Garin Avenue realignment has been completed and since the improvements on Vanderbilt Street are now no longer projected to be accomplished, the remaining funds will be reimbursed.

11. **Sanwa Bank-Tract 4609 (2399)**: The deposit is related to the subdivision of an 18 acre parcel into 30 single-family lots on Garin Avenue, and results from the ownership transfer of Tract 4609 from Land Title Company to Sanwa Bank. The project for which the deposit was originally received, the extension of Alquire Parkway, has been canceled and a new project planned. The new project is the realignment of Garin Avenue and the widening of Vanderbilt Street. These alternative traffic improvements have been addressed through an agreement with the property owner. Garin Avenue realignment has been completed and since the improvements on Vanderbilt Street are now no longer projected to be accomplished, the remaining funds will be reimbursed.

12. **Bailey Ranch - Tract 6169 (2262-001)**: 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.
13. **Bailey Ranch – Tract 6169 (2262-002)**: 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.
14. **Bailey Ranch – Tract 6169 (2262-003)**: 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 shall be retained until the improvements are complete.
15. **Bailey Ranch – Tract 6169 (2262-004)**: 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.

DRAFT

APD
11/16/99

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 Director of Finance and Internal Services dated November __, 1999, and adopts the findings contained therein, a copy of which is attached hereto as Exhibits "A" and "B".

IN COUNCIL, HAYWARD, CALIFORNIA _____, 1999

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