



# City of Sunnyvale

## Agenda Item-No Attachments (PDF)

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File #: 16-1001, Version: 1

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### REPORT TO COUNCIL

#### **SUBJECT**

Receive and File FY 2015/16 Annual Status Report on Receipt and Use of Development Impact Fees and Adopt a Resolution Approving Findings Regarding Unspent Impact Fees (Exempt from CEQA pursuant to Section 15378(b)(4) of the CEQA Guidelines)

#### **BACKGROUND**

In order to ensure that mitigation fees are spent in a timely manner and on projects for which they were being collected, the State Legislature passed the Mitigation Fee Act (AB 1600). This bill applies to developer fees which were increased or imposed on or after January 1, 1989.

The Mitigation Fee Act (California Government Code Section 66000 et seq.) requires local agencies to present an annual, consolidated report showing the receipt and use of all development impact fees that are subject to the act collected by the agency. The Annual Status Report must be reviewed by Council within 180 days after the close of the fiscal year represented.

The Mitigation Fee Act also requires that the local agency make certain findings every five years regarding any unspent impact fees. Previously, the City's impact fees have been on separate reporting timetables. Council last made the required findings for the Housing Mitigation Fees, Park Dedication Fees, and Traffic Mitigation Fees in 2011 (for FY 2010/11). The required findings for the Transportation Impact Fees and Sense of Place Fees were made in 2014 (for FY 2013/14). As new fees are adopted (such as the Sense of Place and Infrastructure Fees recently adopted for Peery Park), the complexity of complying with the Mitigation Fee Act's reporting requirements will increase. Many agencies have opted to make the required 5-year findings for all impact fees every year when the annual report is presented. This increases efficiency and public transparency and eliminates the possibility that a deadline will be missed. Therefore, starting with the FY 2015/16 Report, a resolution making the required findings for all impact fees will be provided annually with the Annual Status Report.

The City assesses four development impact fees - the Housing Mitigation/Impact Fee; the Sense of Place Fee; the Transportation Impact Fee; and the Park Dedication In-lieu Fee (referred to as Park Dedication Fees in this report). The first three are subject to the Mitigation Fee Act, while only a portion of the City's Park Dedication Fee is subject to the Mitigation Fee Act. Specifically, Park Dedication Fees assessed pursuant to the Quimby Act (California Government Code Section 66477) and codified by the City in the Sunnyvale Municipal Code Chapter 18.10 (Subdivisions - Parks and Open Space Dedication) are exempt from the reporting requirements included in the Mitigation Fee Act. Park Dedication Fees assessed pursuant to Sunnyvale Municipal Code, Chapter 19.74 (Zoning - Park Dedication Fees for Rental Housing Projects) are subject to the reporting requirements included in the Mitigation Fee Act. Therefore, only the details of the non-exempt Park Dedication Fees are included in the report. Total Park Dedication Fees collected for the year are presented in the City's

Comprehensive Annual Financial Report as well as the Recommended Budget for the coming year.

Starting in FY 2015/16, a Housing Impact Fee was established (RTC No. 15-0207). The Housing Impact Fee expands the existing Housing Mitigation Fee from industrial projects to nonresidential developments (all new commercial, industrial, research and development, retail and lodging projects in any zoning district, unless otherwise exempted) and includes an impact fee for rental housing projects. The monies associated with each are held in the same Housing Mitigation Sub-fund.

In addition to these four active fees, the City maintained a fund balance in FY 2015/16 resulting from Traffic Mitigation Fees. Traffic Mitigation Fees have not been assessed by the City since 2004 as the Traffic Mitigation Fees were superseded by the Transportation Impact Fees. The Traffic Mitigation Fee was created in 2000 as a key component of the Transportation Strategic Program to provide an interim revenue mechanism to fund needed upgrades to the transportation system resulting from new development. In 2004, the City stopped assessing Traffic Mitigation Fees and began assessing Transportation Impact Fees. Both the Traffic Mitigation Fees and the Transportation Impact Fees are subject to the Mitigation Fee Act and are included in the report.

### **EXISTING POLICY**

Sunnyvale Municipal Code Chapters 3.50, 18.10, 19.74 and 19.75.

### **ENVIRONMENTAL REVIEW**

This action is exempt from environmental review under the California Environmental Quality Act (CEQA) because it is a government fiscal activity that does not involve commitment to any specific project that may result in a significant physical impact to the environment. (CEQA Guidelines Section 15378(b)(4).)

### **DISCUSSION**

As prescribed by the Mitigation Fee Act, the Annual Status Report must include the following information for each development impact fee:

- A brief description of the fee and the fund into which the fee was deposited;
- The amount of the fee;
- The associated fund's beginning and ending balances for the fiscal year;
- The total amount of fees collected and interest earned;
- Identification of each public improvement on which impact fees were expended and amount of expenditure on each improvement, including the total percentage of the cost of the public improvement that was funded with impact fees;
- Identification of approximate date by which construction of a public improvement will begin;
- Determination that sufficient funds have been collected to complete financing on an incomplete public improvement;
- Description of each inter-fund transfer or loan made from the account or fund, including the public improvement on which the loaned funds will be expended, and in the case of an inter-fund loan, the date on which the loan will be repaid and the rate of interest that the account or fund will receive on the loan; and
- Amount of any refunds made due to inability to expend impact fees once a determination is made that sufficient impact fees have been collected to finance a public improvement, and the improvement remains incomplete, and the City has not determined an approximate date by

which construction will begin.

This information is presented in the attached FY 2015/16 Annual Status Report on Receipt and Use of Development Impact Fees (Attachment 1).

### **FISCAL IMPACT**

In FY 2015/16, the City received \$23,537,252 in newly collected development impact fees. Of that total amount \$11,430,430 was reportable under the Mitigation Fee Act and \$12,106,822 was exempt from reporting requirements (park dedication in lieu fees collected from subdivisions pursuant to the Quimby Act). The fee revenue will be used to fund public improvements necessary to meet the demand for services resulting from commercial and residential development in the City. The specifics of how these monies are programmed for expenditure are included in the status report, as well as in the FY 2016/17 Adopted Budget and Resource Allocation Plan.

### **PUBLIC CONTACT**

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's website.

The Mitigation Fee Act stipulates a 15-day public review period for the Annual Status Report. The Annual Status Report was available for public inspection on November 28, 2016.

### **RECOMMENDATION**

Receive and file FY 2015/16 Annual Status Report on receipt and use of development impact fees and adopt a Resolution making findings regarding unspent impact fees as required by the Mitigation Fee Act (California Government Code Section 66000 et seq.).

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Approved by: Deanna J. Santana, City Manager

### **ATTACHMENTS**

1. FY 2015/16 Annual Status Report on Receipt and Use of Development Impact Fees
2. A Resolution of the City Council of the City of Sunnyvale Approving the Development Impact Fee Annual Report for Fiscal Year 2015/16 and Making Findings Required by the Mitigation Fee Act