

**CITY OF ALBANY
CITY COUNCIL AGENDA
STAFF REPORT**

Agenda date:12/15/08

Reviewed by: BP

SUBJECT: Status of Sewer, Storm Drainage, Capital Facilities In-Lieu Fees, and Parkland In-Lieu Fees Collected as of June 30, 2008 according to Government Code Section 66001 (AB 1600)

REPORT BY: Ann Chaney, Community Development Director
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STAFF RECOMMENDATION

That the City Council receive comments, if any, from residents regarding the Development Impact Fee Report made available to the public on December 1, 2008.

BACKGROUND

Following the passage of Proposition 13 in 1978, many cities began charging fees on new development to fund public improvements and services such as streets, transit facilities, sewers, and storm drains. These fees are commonly known as development impact fees. In order to ensure that these fees were spent in a timely manner and on projects for which they were being collected, the State Legislature passed a bill known as AB 1600 (Mitigation Fee Act). This bill applies to developer fees, increased or imposed on or after January 1, 1989. AB 1600 enacts Government Code Sections 66000-66008 that generally contain four requirements:

1. A local jurisdiction must follow the process set forth in the bill and make certain determinations regarding the purpose and use of the fees, and establish a “nexus” or connection between a development project or class of project and the public improvement being financed with the fee.
2. The fee revenue must be segregated from the general fund in order to avoid commingling of public improvement fees and the general fund.
3. If a local jurisdiction has had possession of a developer fee for five years or more and has not committed that money to a project or actually spent that money, then it must make findings describing the continuing need for that money. In addition, an annual report must be made of fees collected, interest earned, projects on which fees were expended, and any transfers or loans from the fee account. This report is to be reviewed by the local agency assessing the fees.

4. If a local jurisdiction cannot make the findings required under paragraph 3, the city or county must refund the fees collected.

The sewer fees, storm drain fees, capital facilities fees and parkland in-lieu fees that the City of Albany collect, qualify as development impact fees. Therefore, these fees must comply with the above referenced Government Code Sections. Government Code Section 66001 requires the City to make available to the public certain information regarding development impact fees for each fund within 180 days after the end of each fiscal year. Expenditure of the fees collected must occur within a five-year period from the date of collection.

SEWERS/CONNECTION FEES

Section 15-1.6 of the Albany Municipal Code establishes the provision for collecting a sanitary sewer connection fee. Per the City's adopted Master Fee Schedule, the sewer connection fee for new residential units is \$1,158 per unit. For remodels the charge is \$180.95 per each additional plumbing fixture. Similar charges are assigned to commercial and industrial development.

These fees are being used to partially fund the City's Sewer Compliance Plan. In September 2008, the City began the major project of construction of a new storm drain along Neilson Street, from Albany Terrace to Codornices Creek. In conjunction with the storm drain construction, sanitary sewer improvements will be performed, at a cost of \$400,000. Several other projects have been planned for the next five-year period through fiscal year 2012-2013.

Sewer/Connection Fees Collections and Expenditures

	Fiscal Year				
	2003-04	2004-05	2005-06	2006-07	2007-08
Beginning Balance	\$0	\$0	\$10,867	\$0	\$0
Fees Collected	32,779	41,813	65,719	29,238	38,415
Interest Earned	0	237	2,941	1,494	1,679
Funds Available	32,779	42,050	79,527	30,732	40,094
Project Expenditures:					
Sewer Rehabilitation	32,779	31,183	79,527	30,732	40,094
Total Expenditures	32,779	31,183	79,527	30,732	40,094
Unexpended Balance	0	10,867	0	0	0

STORM DRAIN IMPACT FEES

Section 15-4.9 of the Albany Municipal Code enables the City to charge a “reasonable storm sewer fee for residential, industrial, and commercial users of the City’s storm sewer system.” Per the City’s adopted Master Fee Schedule, a storm drain fee is collected for all new development in the amount of \$0.10 per square foot of lot area.

The fee is waived if the property owner either (a) reduces the amount of developed impervious surface on the property by an amount equal to 50% of the amount of new development or (b) installs a grasscrete driveway [residential].

In 1998, City Council adopted the Watershed Management Plan. Storm drain fees collected were used to fund the development of this Plan. These fees are now being used to partially fund major storm drain improvement projects. In September 2008, the City began construction of a new storm drain along Neilson Street, from Albany Terrace to Codornices Creek. This project will be completed in early 2009, and is projected to cost \$2.5 million. Several other projects have been planned for the next five year period through fiscal year 2012-2013.

Storm Drain Impact fees Collections and Expenditures

	Fiscal Year				
	2003-04	2004-05	2005-06	2006-07	2007-08
Beginning Balance	\$0	\$0	\$0	\$0	\$0
Fees Collected	18,011	1,520	2,369	635	1,309
Interest Earned	0	0	0	0	0
Funds Available	18,011	1,520	2,369	635	1,309
Project Expenditures:					
Watershed Mgt. Plan				635	1,309
Storm Project	18,011	1,520	2,369		
Total Expenditures	18,011	1,520	2,369	635	1,309
Unexpended Balance	0	0	0	0	0

CAPITAL FACILITIES IMPACT FEES

Section 20-12 of the Albany Municipal Code establishes the provision for collecting capital facilities fees on new development. Section 20-12.4 generally states that the revenues raised by these fees shall be used to pay for needed improvements to capital facilities and new capital facilities, or to reimburse developers who provide supplemental capacity beyond that which is needed for the development for which a fee was imposed. Per the City’s adopted Master Fee Schedule, a capital facilities impact fee is charged for all new development. The fee for residential additions and non-residential development

is \$0.65 per square foot. For new residential units, the fee ranges from \$375 to \$1,365 per unit depending upon unit size.

The major fees collected in fiscal year 2003-04 were from the Target department store. The store was opened in October 2004 in the City's redevelopment area along the Eastshore Highway. The unexpended balance of the Target fees, and additional fees collected over the last four years, will be used to support additional development and creek restoration activities within the redevelopment area. FY2007-08 funds from more recent projects, including the Villa De Albany at 727 San Pablo Avenue could be used toward park and recreation improvements, and/or streetscape and street safety improvements.

Capital Facilities Impact Fees Collections and Expenditures

	Fiscal Year				
	2003-04	2004-05	2005-06	2006-07	2007-08
Beginning Balance	\$0	\$64,323	\$69,211	\$124,829	\$143,634
Fees Collected	125,228	23,889	51,002	14,509	18,284
Interest Earned	320	1,512	4,616	4,296	6,062
Funds Available	125,548	89,724	124,829	143,634	167,980
Project Expenditures:					
Cooperative Sidewalk Imprv.	2,185				
Ohlone Greenway Lighting		1,155			
Eastshore Highway		1,313			
Park Acquisition & Landscaping Equipment	59,040				
Albany Parks, Recreation & Open Space Master Plan		18,045			
Total Expenditures	61,225	20,513	0	0	0
Unexpended Balance	64,323	69,211	124,829	143,634	167,980

PARKLAND IN-LIEU FEES

Section 22-8.4 of the Albany Municipal Code establishes the provision for collection of parkland in-lieu fees on land. The fees shall be used for community and neighborhood parks and facilities in such a manner that the locations of such parks and facilities bear a reasonable relationship to the use of the park and recreational facilities by the future inhabitants of the development generating such fees. A fee is calculated based upon the estimated fair market value of the land being subdivided and the estimated fair market value of the land that would otherwise be required to be dedicated.

No fees were collected in FY2004-05, FY2005-06 and FY2006-07. The fees collected in FY2007-08 were from Villa De Albany LLC for the 727 San Pablo Avenue condominium development. The fund balance carried forward from fiscal year 2002-03 was used to fund the Albany Parks, Recreation & Open Space Park Master Plan in fiscal year 2003-04. The 2007-08 fees will be programmed for park improvements over the next three years.

**Parkland In-Lieu Fees
Collections and Expenditures**

	Fiscal Year				
	2003-04	2004-05	2005-06	2006-07	2007-08
Beginning Balance	\$70,666	\$0	\$0	\$0	\$0
Fees Collected	0	0	0	0	159,149
Interest Earned	0	0	0	0	5,216
Funds Available	70,666	0	0	0	164,365
Project Expenditures:					
Albany Parks, Recreation & Open Space Master Plan	70,666	0	0	0	0
Total Expenditures	70,666	0	0	0	0
Unexpended Balance	0	0	0	0	164,365

FINANCIAL IMPACT

There is no action to be taken by the Council as a result of this report, and all revenues and expenditures reported are for prior fiscal periods. There are no unexpended funds requiring refund.