



# STAFF REPORT

AGENDA NO: 8i

MEETING DATE: November 18, 2019

**To: Honorable Mayor and City Council**

**Date: November 18, 2019**

**From: Carol Augustine, Finance Director – (650) 558-7222**

**Subject: Adoption of a Resolution Approving the Annual Report on the Status of Impact Fees Collected as of June 30, 2019, Pursuant to the Mitigation Fee Act (Government Code Section 66000 et seq.), and Making Required Findings Related to the City's Development Impact Fees**

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## **RECOMMENDATION**

Staff recommends that the City Council approve this annual report of the status of the Public Facilities Impact fees, North Burlingame and Rollins Road fees, Bayfront Development fees, and Burlingame Avenue Parking In-Lieu fees collected by the City, and make the following findings in regards to these fees and unexpended funds:

- Public Facilities Impact fees, North Burlingame and Rollins Road fees, Bayfront Development fees, Commercial Linkage fees and Residential Impact fees are collected to mitigate direct and indirect impacts from development.
- These funds are expended in a timely manner to fund continued improvements to public facilities related to the increased demand on the facilities resulting from development.
- There is a reasonable relationship between these impact fees and their purpose.
- These impact fees continue to be required to fund applicable improvements, and as such, these fees will continue to be collected and deposited into the appropriate fund for utilization solely for their intended purpose.

In addition, in regards to fees that are collected and remain unexpended for the fifth year following the deposit of the fee, staff recommends one additional finding be made:

- There is approximately \$342,000 in the North Burlingame and Rollins Road fees (and associated interest) that were deposited over five years ago. Projects identified when the fee was established are estimated to cost over \$2.2 million, and the collected fees are inadequate for undertaking the identified projects in the North Burlingame and Rollins Road Plan. These outstanding fees, as well as development fees collected in the future, will be accumulated in the North Burlingame & Rollins Road special revenue fund to support these significant projects as the funds become available in sufficient amounts.

## **BACKGROUND**

Cities and counties often charge fees on new development to fund public improvements, public amenities, and public services. For example, transportation mitigation fees are used to fund transit facilities, streets, bike lanes, and sidewalks. These fees are commonly known as development impact fees. In 1989, the State Legislature passed Assembly Bill 1600 (AB 1600), which added Sections 66000 et seq. to the California Government Code, commonly known as the Mitigation Fee Act. The Mitigation Fee Act sets forth a number of requirements that local agencies must follow if they are to collect and retain fees from developers to defray the cost of the construction of public facilities related to development projects.

1. In establishing, increasing, or imposing a fee, the local agency must make certain determinations regarding the purpose and use of the fees and to 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. For the fifth year following the first deposit of a fee and every five years thereafter, the local agency shall make the following findings with respect to that portion of the account or fund remaining unexpended, whether committed or uncommitted:
  - a. Identify the purpose to which the fee is to be used;
  - b. Demonstrate a reasonable relationship between the fee and the purpose for which it is charged;
  - c. Identify all sources and amounts of funding anticipated to complete financing of incomplete improvements; and
  - d. Designate approximate dates on which the funding identified in (c) is expected to be deposited into the appropriate account or fund. These findings need only be made for money in possession of the local agency.

The Public Facilities Impact fees, North Burlingame and Rollins Road fees, Bayfront Development fees, Commercial Linkage fees (newly applicable in fiscal year 2017-18) and Residential Impact fees (newly applicable in the current fiscal year) collected by the City of Burlingame qualify as development impact fees and, therefore, must comply with the Mitigation Fee Act. As required by law, these fees are segregated and accounted for as Special Revenue Funds. Government Code Section 66006 requires the City to make available to the public the following information regarding development impact fees for each fund within 180 days after the end of each fiscal year:

- A brief description of the type of fee in the account or fund;
- The amount of the fee;
- The beginning and ending balance of the account or fund;
- The amount of the fees collected and the interest earned;
- An identification of each public improvement on which the fees were expended, and the amount of the expenditure on each improvement, including the total percentage of the cost of the public improvement that was funded with the fees;
- An identification of the approximate date by which the construction of the public improvement will commence if the local agency determined that sufficient funds have been

collected to complete financing on an incomplete public improvement, and the public improvement remains incomplete; and

- A description of each inter-fund transfer or loan made from an account or fund in accordance with the Mitigation Fee Act.

This report meets the requirements to comply with the Mitigation Fee Act. It also complies with the requirement that certain findings be made every five years specifying the intended use of any unexpended impact fees, regardless of whether the fees are committed or uncommitted.

## **DISCUSSION**

### **Public Facilities Impact Fees**

The Public Facilities Impact Fee, which commenced in November 2008, is a general category of fees based on the uses, number of dwelling units, and amount of square footage to be located on the property after completion of a development project. The fees are committed to public improvements, public services, and community amenities affected by new development. The purpose of the fee is established upon approval of a permit for construction or reconstruction and is intended for improvement in one or more of seven categories. The fee for each of the seven categories was set upon adoption of the fees in 2008 and remains as shown below:

	<b>Single Family</b>	<b>Multifamily</b>	<b>Commercial</b>	<b>Office</b>	<b>Industrial</b>
	Fee per Dwelling Unit	Fee per Dwelling Unit	Fee per 1,000 sq.ft. of Building	Fee per 1,000 sq.ft. of Building	Fee per 1,000 sq.ft. of Building
<b>General</b>	\$ 2,756	\$ 1,636	\$ 640	\$ 930	\$ 305
<b>Library</b>	\$ 2,383	\$ 1,415	\$ 478	\$ 695	\$ 228
<b>Police</b>	\$ 437	\$ 259	\$ 102	\$ 147	\$ 48
<b>Parks</b>	\$ 590	\$ 350	\$ 118	\$ 172	\$ 56
<b>Traffic/Streets</b>	\$ 1,573	\$ 1,105	\$ 1,810	\$ 7,285	\$ 1,146
<b>Fire</b>	\$ 642	\$ 381	\$ 248	\$ 360	\$ 118
<b>Storm Drainage</b>	\$ 781	\$ 391	\$ 442	\$ 717	\$ 628
<b>Total Impact Fee:</b>	<b>\$ 9,162</b>	<b>\$ 5,537</b>	<b>\$3,838</b>	<b>\$10,306</b>	<b>\$2,529</b>

The following table summarizes the activities associated with public facilities impact fees from fiscal year 2014-15 through the fiscal year ended June 30, 2019:

<b><u>Public Facilities Impact Fees</u></b>	<b>2014-15</b>	<b>2015-16</b>	<b>2016-17</b>	<b>2017-18</b>	<b>2018-19</b>
Beginning Balance	\$126,559	\$117,579	\$312,492	\$559,221	\$685,271
Developer Fees	24,505	190,797	244,292	123,367	239,745
Interest Income (Expense)	826	4,116	2,436	2,683	19,770
Expenditures	(34,311)	0	0	0	(383,017)
Encumbrances - Current Year	0	0	0	0	0
<b>Ending Balance</b>	<b>\$117,579</b>	<b>\$312,492</b>	<b>\$559,221</b>	<b>\$685,271</b>	<b>\$561,769</b>

The first public facilities impact fees were collected in fiscal year 2010-11 and applied immediately to capital improvement projects expenditures in that same year. Of the total \$1.8 million transferred to the City's CIP (Capital Improvement Projects) Fund in fiscal year 2010-11, \$650,000 funded

Public Facilities projects. Expenditures in fiscal year 2010-11 were largely related to streets and traffic projects; in fiscal year 2014-15, the public facilities impact fees helped to fund ADA and parking lot improvements associated with the Library Millennium Project. In the last fiscal year, the Streets and Traffic helped to fund the California Drive Complete Streets and Roundabout projects; Storm Drain fees were applied to the Water Quality Improvements associated with the California Drive Roundabout project construction. The balance of public facilities impact fees as of June 30, 2019, resides in the facility categories as shown below:

<b><u>Public Facilities Impact Fees</u></b>	
	Balance at <u>June 30, 2019</u>
General Facilities	\$176,519
Library	\$16,691
Police	\$75,417
Parks & Recreation	\$39,448
Streets & Traffic	\$127,564
Fire	\$90,572
Storm Drain	\$35,558
<b>Ending Balance</b>	<b><u>\$561,769</u></b>

Staff will examine current and planned facility improvements that are eligible to be funded from the Public Facilities Impact fees and recommend any appropriate fund transfers as part of the fiscal year 2019-20 mid-year analysis.

#### **North Burlingame/Rollins Road Development Fee:**

Properties lying within the geographical boundaries of the study area for the “North Burlingame/Rollins Road Specific Plan”, adopted in 2004, are subject to payment of a specific development impact fee applicable only to that study area at the time the property is developed or redeveloped. One-half of the fee is payable before issuance of a building permit, and the balance is payable when a certificate of occupancy is requested. Ordinance No. 1751 (2005) provides for annual adjustment of the fee based on the construction cost index published in the Engineering News Record (ENR) as of July 1<sup>st</sup> of each year. As of June 30, 2019, the fees were as follows:

<b><u>North Burlingame &amp; Rollins Road Development Fee</u></b>	
Rollins Road Area of Benefit	\$0.62 per square foot of building
El Camino North Area of Benefit:	
Multiple family dwelling or duplex	\$0.62 per square foot of building
Any use other than multiple family dwelling or duplex	\$0.78 per square foot of building

Funds collected are to be used to pay the cost of improvements to the City's infrastructure in the area, including: sanitary sewers, water, storm drains, and streetscape.

<b><i>North Burlingame &amp; Rollins Road</i></b>	<b>2014-15</b>	<b>2015-16</b>	<b>2016-17</b>	<b>2017-18</b>	<b>2018-19</b>
Beginning Balance	\$324,318	\$342,152	\$424,008	\$425,864	\$427,538
Developer Fees	15,431	76,271	0	0	34,475
Interest Income (Expense)	2,404	5,585	1,855	1,674	16,852
Expenditures	0	0	0	0	0
Encumbrances - Current Year	0	0	0	0	0
<b>Ending Balance</b>	<b>\$342,152</b>	<b>\$424,008</b>	<b>\$425,864</b>	<b>\$427,538</b>	<b>\$478,865</b>

Expenditures of these funds did not begin until fiscal year 2011-12. It is apparent that, of the \$478,865 balance as of June 30, 2019, \$324,318 (the fiscal year 2014-15 beginning balance) is attributable to fees collected more than five years ago. Projects identified when the fee was established, including medians and a linear park along El Camino Real at Trousdale, Adrian Road landscaping, and a City gateway at Rollins Road, are estimated to cost over \$2.2 million. Therefore, staff recommends that the Council make the finding that fees collected in the future be accumulated in the North Burlingame & Rollins Road special revenue fund to support these significant projects as the funds become available in sufficient amounts.

### **Bayfront Development Fees**

Similar to the North Burlingame/Rollins Road Development Fee, this fee (adopted by ordinance in 1979), applies only to properties lying within the geographic boundaries of the study area for the Burlingame Bayfront Specific Plan. Per the ordinance, the fees collected are to be used to pay for "future construction, improvement, and enlargement of major arterials and traffic control devices for the primary purpose of carrying through traffic and providing a network of roads within the Bayfront area on the east side of US 101." Ordinance No. 1739 (2004) provides for annual adjustment of the fee based on the construction cost index published in the Engineering News Record (ENR) as of July 1<sup>st</sup> of each year. As of June 30, 2019, the fees were as follows:

#### **Bayfront Development Fee**

Office	\$2,712/TSF
Restaurant	\$10,923/TSF
Hotel	\$889/room
Hotel, Extended Stay	\$864/room
Office, Warehouse, Manufacturing	\$4,112/TSF
Retail - Commercial	\$9,985/TSF
Car Rental	\$63,369/acre
Commercial Recreation	\$19,666/acre
All Other	\$2,185 per p.m. peak hour trip as detailed by traffic study

The fund had a zero beginning balance as of the start of fiscal year 2009-10. The balance of fees collected prior to June 30, 2009 (approximately \$78,000) was transferred to the General Fund to reimburse the General Fund for the Anza Overpass. Although this project was identified in the Bayfront Development Fee project when the fee was first established, there was insufficient funding to draw on when the project construction was complete. The table below summarizes the activity for the Bayfront Development Fee Fund from fiscal year 2014-15 through June 30, 2019.

<b><i>Bayfront Development</i></b>	<b>2014-15</b>	<b>2015-16</b>	<b>2016-17</b>	<b>2017-18</b>	<b>2018-19</b>
Beginning Balance	\$1,740	\$1,774	\$0	\$0	\$0
Developer Fees	0	0	0	0	0
Interest Income (Expense)	34	0	0	0	0
Expenditures	0	(1,774)	0	0	0
Encumbrances - Current Year	0	0	0	0	0
<b>Ending Balance</b>	<b>\$1,774</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Fees collected since 2009 were to be used to reimburse the CIP Fund for ADA (Americans with Disabilities Act) sidewalk improvements along the Bayfront area. The project was under design beginning in fiscal year 2014-15, but Bayfront Development fees had not been assessed for several years. The small remaining balance of Bayfront Development fees was transferred to support the project at the beginning of fiscal year 2015-16. As a high-priority project, \$200,000 was added to the CIP project (for a total budget of \$521,000) to address the necessary improvements in the FY 2015-16 mid-year budget. No Bayfront Development Impact fees were assessed or collected in the past five fiscal years.

### **Commercial Linkage Fees and Residential Impact Fees**

On July 3, 2017, the City Council adopted an ordinance establishing commercial linkage fees for new commercial development in Burlingame to support workforce housing in the city. Under the new ordinance, developers of employment-generating commercial and industrial developments are required to contribute to the supply of low- and moderate- income housing through the provision of the fee as prescribed in the nexus impact fee study dated November 2015. The adopted fees are \$7.00 per square foot for new retail development, \$12.00 per square foot for new hotel development, \$18.00 per square foot for office projects of 50,000 square feet or less, and \$25.00 per square foot for office development greater than 50,000 square feet. For developers who utilize prevailing wages or area standard wages, the fees are \$5.00 per square foot for new retail development, \$10 per square foot for new hotel development, \$15.00 per square foot for office projects of 50,000 square feet or less, and \$20.00 per square foot for office development greater than 50,000 square feet. There are no fee revenues to report for the fiscal year ended June 30, 2019, or the year prior. However, over time these fees will provide a dedicated source of funding for programs supporting workforce housing in Burlingame.

Over the past year, a number of cities in San Mateo County have expressed an interest in examining their commercial linkage fee levels to see if changes might be warranted given changes in market conditions since cities first adopted their fees. The 21 Elements housing collaborative is coordinating a multicounty commercial linkage feasibility study, which will make recommendations on appropriate impacts fee levels for new office, biotech, and hotel developments. The City of

Burlingame is participating in the feasibility study, together with Brisbane, Half Moon Bay, San Bruno, San Mateo, South San Francisco, and Pacifica. Each city will receive a unique report. Reports are anticipated in the second quarter of 2020.

On April 1, 2017, the City Council adopted an ordinance establishing residential impact fees for new residential development in Burlingame, also to support workforce housing needs. The fees are effective beginning in the current fiscal year. The ordinance provides for a tiered structure of fees based on residential density and whether a project is for rent or for sale, as shown below:

	Impact Fee – Per Square Foot	
	Base	With Prevailing / Area Wage
<b>Rental Multifamily – 11 units and above</b>		
Up to 50 du/ac	\$17.00 / sq ft	\$14.00 / sq ft
51-70 du/ac	\$20.00 / sq ft	\$17.00 / sq ft
71 du/ac and above	\$30.00 / sq ft	\$25.00 / sq ft
<b>For Sale Multifamily (Condominiums) – 7 units and above</b>		
	\$35.00 / sq ft	\$30.00 / sq ft
<b>Notes:</b> 1. Rental Multifamily with total of 10 units or fewer are exempt. 2. For Sale Multifamily (Condominiums) with total of 6 units or fewer are exempt. 3. Rental projects that convert to condominiums within 10 years of completion of construction would be subject to the fee differential as a condition of conversion. The fee differential shall be based on the fee structure in place at the time of conversion to condominiums, minus the fees originally submitted at the time of construction.		

The ordinance also provides an “in-lieu” option where the developer can choose to provide an affordable unit or units on site in lieu of submitting the impact fee. Whether a developer would choose an on-site option would depend on a number of factors such as the amount of the impact fee, the size of the development, the comparable cost of underwriting the affordable units for the designated time period and affordability level, and whether the ownership of the development is expected to be retained or sold at completion of construction.

Both Burlingame’s Commercial Linkage fees and Residential Impact Fees have been determined to be development impact fees and are subject to all of the same Mitigation Fee Act tracking and reporting requirements previously referenced. Revenues from these newly-established fees are anticipated to be collected and reported for the fiscal year ended June 30, 2020.

## **FISCAL IMPACT**

Compilation of this report has no impact on City resources, as all impact fees held by the City for over five years have either been spent or are committed to specific purposes per appropriate findings made by the City Council. If findings associated with funds held for a period of over five years are not made, the City must refund the fees to the developers from which they were received.

Exhibit:

- Resolution of Findings related to the City’s Development Impact Fees