

**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 12/04/2018

ITEM NO: 2

DATE: NOVEMBER 28, 2018
TO: MAYOR AND TOWN COUNCIL
FROM: LAUREL PREVETTI, TOWN MANAGER
SUBJECT: ACCEPT FISCAL YEAR (FY) 2017/18 STATUS REPORT ON RECEIPT AND USE
OF DEVELOPMENT IMPACT FEES

RECOMMENDATION:

Accept Fiscal Year (FY) 2017/18 status report on receipt and use of Development Impact Fees.

BACKGROUND:

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

The Mitigation Fee Act (California Government Code, §66000 et seq.) requires local agencies that impose Development Impact Fees to present an annual, consolidated report showing the receipt and use of those fees. The Annual Status Report (Attachment 1) must be reviewed by Council within 180 days after the close of the fiscal year represented.

The Town collects three Development Impact Fees that meet the AB 1600 reporting requirement: the Traffic Impact Mitigation Fee, Below-Market Priced Housing Program In-Lieu Fee, and the Construction Activity Impact Fee. Separate balances exist for each of these fees either as individual accounts or in the case of Traffic Impact Mitigation Fees, separate funds. As required by AB 1600, as of June 30, 2018, all accounts or funds with unspent balances have been credited interest revenue at the Town's current interest rate earned on its total investment portfolio.

PREPARED BY: STEPHEN CONWAY
Finance Director

Reviewed by: Town Manager, Assistant Town Manager, and Town Attorney

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DEVELOPMENT IMPACT FEES

DATE: NOVEMBER,28 2018

DISCUSSION:

AB 1600 requires that a status report be prepared annually which must include the following:

- 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, 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 2017/18 Annual Status Report on Receipt and Use of Development Impact Fees.

CONCLUSION:

Staff recommends Council accept the FY 2017/18 Annual Status Report on Receipt and Use of Development Impact Fees as required under the Mitigation Fee Act (AB 1600).

COORDINATION:

This report was coordinated with the Community Development and Park and Public Works Departments.

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FISCAL IMPACT:

There is no fiscal impact from this action.

ENVIRONMENTAL ASSESSMENT:

This is not a project defined under CEQA, and no further action is required.

Attachment:

1. FY 2017/18 Annual Status Report on Receipt and Use of Development Impact Fees.

TOWN OF LOS GATOS
ANNUAL STATUS REPORT ON RECEIPT AND USE OF DEVELOPMENT IMPACT FEES
JUNE 30, 2018

Traffic Impact Mitigation Fee:

The Traffic Impact Mitigation Fee assures that each new development or expansion of use pays its fair share of the transportation improvements needed to accommodate the cumulative traffic impacts. The fee, \$930 per new average daily trip generated, is paid in full to the Town Building Department prior to issuance of the building permit for new development or expansion of use. The collected fee is held in the Traffic Mitigation Fee Fund. The Traffic Mitigation Fund should be used solely to fund transportation improvement projects related to mitigating the impacts of new development. The funds cannot be used for routine repair or maintenance.

TRAFFIC IMPACT MITIGATION FEES FUND

Beginning Cash Balance (07/01/2017)	\$2,529,932
Source of Funds	
Fees Collected FY 17/18	97,881
Interest Earned FY 17/18	31,945
Total Source of Funds	\$2,659,758
Use of Funds	
Capital Outlay:	
Bike & Pedestrian Improvement	\$40,972
Crosswalk Improvements	35,775
Crosswalk Lighting Upgrades	5,437
Cut-Thru Traffic Mitigation	23,123
Project Overhead Business Service Charge	10,000
Traffic Signal Modernization	4,200
Total Use of Funds	\$119,507
Expenses Occurred in FY 2016/17 , Paid in July of FY 2017/18	2,402
Expenses Occurred in FY 2017/18, Paid in July of FY 2018/19	58,450
Ending Cash Balance (07/01/2018) Pre-Final Audit	\$2,596,299
Designated Future Projects:	
Per FY 18/19 through 22/23 Capital Improvement Plan:	
Blossom Hill Road/Cherry Avenue Intersection Impvts (FY 2018/19)	\$500,000
Los Gatos Boulevard/Shannon Improvements (FY 2018/19)	20,000
Monument Control Network Upgrade (FY 2018/19)	10,000
Hwy 9/University Intersection (FY 2018/19)	66,963
Crosswalk Improvements- Santa Cruz/Blossom Hill (FY 2018/19)	50,000
Crosswalk Lighting Upgrade (FY 2018/19)	50,000
Traffic Signal Modernization (FY 2018/19- FY 2020/21)	1,095,714
Bicycle & Pedestrian Improvements (FY 2018/19)	75,000
Cut-Through Traffic Mitigation (FY 2018/19)	119,894
Highway 17 Bicycle & Ped Bridge (FY 2018/19)	147,005
Total CIP and Operating Budget Commitments	2,134,576
Potential Project List (Estimates Only) per Unfunded List (Additional Unfunded Projects are Located in the Operating Budget)	
Los Gatos- Almaden Road Improvements (Future Project - Pending Funding)	1,500,000
Los Gatos Blvd Widening , New Sidewalks, and Bike Lanes (Future Project - Pending Funding)	2,000,000
Wood Road Gateway on Santa Cruz Avenue - Roundabout	600,000
Los Gatos-Saratoga Road (Highway 9)/Los Gatos Creek Trail Connection - New path and bridge	500,000
Sidewalk infill - Van Meter, Fisher, & Blossom Hill Schools	500,000
Westbound Lark Avenue to Highway 17 northbound ramps	3,375,000
Lark Avenue/Los Gatos Boulevard intersection improvements - add third left turn lanes	1,080,000
Complete Street improvements - Lark Avenue from Garden Hill Drive to Los Gatos Boulevard	1,050,000
Complete Street improvements - Highway 9 from University Avenue to Los Gatos Boulevard	325,000
Complete Street improvements - Winchester Boulevard from Blossom Hill Road to Lark Avenue	750,000
Total Potential Project List	11,680,000
Total Designated and Unfunded Projects	13,814,576
Current Funding Shortfall	(\$11,218,277)

TOWN OF LOS GATOS
ANNUAL STATUS REPORT ON RECEIPT AND USE OF DEVELOPMENT IMPACT FEES
JUNE 30, 2018
(Continued)

Construction Impact Activity Fee:

Construction Impact Activity Fee is assessed on construction projects based on the square foot size of the project at a rate of \$1.17 per square foot. These fees are intended to recover the damage caused to Town streets by construction traffic. The collected fee is held in the General Fund Appropriated Reserves.

CONSTRUCTION IMPACT ACTIVITY FEE

Beginning Cash Balance (07/01/2017)	\$0
Source of Funds	
Fees Collected FY 17/18	204,391
Interest Earned FY 17/18 (Funds expended upon receipt)	-
Total Source of Funds	\$204,391
Use of Funds	
Business Services Charge	
Capital Outlay:	
Street Repair and Resurfacing Project FY 17/18	\$27,496
Total Use of Funds	\$27,496
Ending Cash Balance (7/01/2018) Pre-Final Audit	\$176,895
Designated Future Projects	
Per FY 18/19 through FY 22/23 Capital Improvement Plan:	
Street Repair and Resurfacing Project	\$7,380,275
Total Designated Future Projects	\$7,380,275
Current Funding Shortfall	(\$7,203,380)

TOWN OF LOS GATOS
ANNUAL STATUS REPORT ON RECEIPT AND USE OF DEVELOPMENT IMPACT FEES
JUNE 30, 2018
(Continued)

Below-Market Priced (BMP) Housing Program In-Lieu Fee:

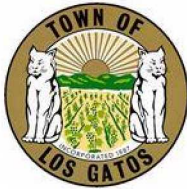
BMP In-Lieu Fees are collected from residential development projects with five (5) or more units when the construction of the BMP unit is impractical or there are unusual circumstances that make the construction of the unit inconsistent with Town policy. The required in-lieu fee is to be paid to the Town prior to issuance of the certificate of occupancy. The BMP In-Lieu Fee is equal to the amount of six (6) percent of the building permit valuation for the entire project. The collected fees are held in the General Fund BMP Housing liability account and are restricted to be used solely for BMP Housing Program activities.

BELOW-MARKET PRICED HOUSING PROGRAM IN-LIEU FEES

Beginning Cash Balance (07/01/2017)	\$3,498,620
Source of Funds	
Fees Collected FY 17/18	\$185,247
Interest Earned FY 17/18	43,719
Total Source of Funds	\$3,727,586
Use of Funds	
Staff Administration	23,000
Total Use of Funds	\$23,000
Ending Cash Balance (7/01/2018) Pre-Final Audit	\$3,704,586
Potential Future Projects	
Low and Moderate Income Housing <i>(Future Project - Pending Funding)</i>	\$3,000,000
Reacquisition of Distressed/Foreclosed Properties <i>(Future Project - Pending Funding)</i>	600,000
Hello House Program Services <i>(Future Project - Pending Funding -5 Year Total)</i>	1,200,000
Total Potential Future Projects	\$4,800,000
Current Funding Shortfall	(\$1,095,414)

Other Required Disclosures:

As required by law, no inter-fund (loans/transfers) were made during the reporting period and no refund were necessary as all fees collected have a current funding short fall status as presented in the Annual Status Report.



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ADDENDUM

DATE: DECEMBER 3, 2018
TO: MAYOR AND TOWN COUNCIL
FROM: LAUREL PREVETTI, TOWN MANAGER
SUBJECT: ACCEPT FISCAL YEAR (FY) 2017/18 STATUS REPORT ON RECEIPT AND USE
OF DEVELOPMENT IMPACT FEES

REMARKS:

In response to an inquiry from a Council Member, staff has prepared the following information.

Please identify the potential future project for Below Market Price (BMP) housing referenced on page 3 of Attachment 1.

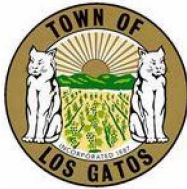
At this time a potential future BMP project has not been identified. If a future BMP project is proposed, the use of these funds would require Town Council direction and action.

Attachment previously received with December 4, 2018 Staff Report:

1. FY 2017/18 Annual Status Report on Receipt and Use of Development Impact Fees.

PREPARED BY: STEPHEN CONWAY
Finance Director

Reviewed by: Town Manager, Assistant Town Manager, and Town Attorney



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DESK ITEM

DATE: DECEMBER 4, 2018
TO: MAYOR AND TOWN COUNCIL
FROM: LAUREL PREVETTI, TOWN MANAGER
SUBJECT: ACCEPT FISCAL YEAR (FY) 2017/18 STATUS REPORT ON RECEIPT AND USE
OF DEVELOPMENT IMPACT FEES

REMARKS:

In response to an inquiry from a Council Member, staff has prepared the following information.

How much Traffic Impact Fees have been collected since July 1, 2018 and what is the actual total in the account?

\$8,779.20 was collected on 10/09/18. The total amount in this account as of 12/04/18 is \$2,469,881.09.

What are the Traffic Impact Fees for the North 40 Phase 1 applications and have they been paid yet?

The Traffic Impact Fees for the Phase 1 project will be approximately \$1.5M. These fees will be calculated based on the final square footage of the project once it is determined. At this point, the fees have not been assessed.

Once paid, what is the process for the Town Council to decide the projects that would be supported by these fees? When is this discussion expected to occur?

Traffic Impact Mitigation Fees are identified in the Municipal Code and supporting Traffic Impact Policy. These provide for credits to developers who construct projects that are included in the identified list of projects that form the fee. For the North 40 Phase 1, staff anticipates the cost of these projects will exceed the fee, resulting in a full credit back to the developer. Future developments on the North 40 site may contribute their fair share to the reimbursement for the mitigation-related projects as well and these amounts will be determined by the type and size of future phases. The calculation of the construction costs

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REMARKS (continued):

and the fees are in process now and will likely result in a reimbursement agreement for Council consideration in the early part of 2019.

Attachment previously received with December 4, 2018 Staff Report:

1. FY 2017/18 Annual Status Report on Receipt and Use of Development Impact Fees.