



**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 12/7/2021

ITEM NO: 7

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DATE: November 23, 2021  
TO: Mayor and Town Council  
FROM: Laurel Prevetti, Town Manager  
SUBJECT: Accept Fiscal Year (FY) 2020/21 Status Report on Receipt and Use of Development Impact Fees

**RECOMMENDATION:**

Accept Fiscal Year (FY) 2020/21 Status Report on Receipt and Use of Development Impact Fees.

**BACKGROUND:**

To ensure that mitigation fees associated with private land use 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, 2021, all accounts or funds with unspent balances have been credited interest revenue at the Town's current interest rate earned on its total.

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**PREPARED BY:** Stephen Conway  
Finance Director

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

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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;
- 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 Town has not determined an approximate date by which construction will begin; and
- Whenever the funds are held five years or more, the Town must present plans or commitments to demonstrate intended future use of these funds.

This information is presented in the attached FY 2020/21 Annual Status Report on Receipt and Use of Development Impact Fees. The Report depicts balances and the intended use of balances, including decisions made after June 30, 2021 to demonstrate that the fees will be used for their respective purposes.

CONCLUSION:

Staff recommends Council accept the FY 2020/21 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 2020/21 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, 2021**

**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, \$958 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**

<b>Beginning Cash Balance (07/01/2020)</b>	<b>2,636,215</b>
<b>Source of Funds</b>	
Fees Collected FY 20/21	18,087
Interest Earned FY 20/21	32,658
<b>Total Source of Funds</b>	<b>\$2,686,961</b>
<b>Use of Funds</b>	
Capital Outlay:	
Traffic Signal Modernization	\$207,240
Highway 17 Bicycle & Pedestrian Bridge-Design	147,195
Traffic Mitigation (Admin Support)	10,000
<b>Total Use of Funds</b>	<b>\$364,435</b>
Expenses Occurred in FY 2020/21, Paid in July of FY 2021/22	122,158
<b>Ending Cash Balance (6/30/2021) Pre-Final Audit</b>	<b>\$2,444,683</b>
<b>Designated Future Projects:</b>	
Per FY 21/22 through 25/26 Capital Improvement Plan:	
Traffic Signal Modernization	\$870,949
Bicycle & Pedestrian Improvements	33,650
<b>Total CIP and Operating Budget Commitments</b>	<b>\$904,599</b>
<b>Potential Project List (Estimates Only)</b>	
Transportation Impact Fee Nexus Study (Future Project - Pending Funding)	\$400,000
Highway 9 – N. Santa Cruz Intersection Improvements (Future Project - Pending Funding)	1,260,000
Highway 17 at Highway 9 Interchange (Future Project - Pending Funding)	2,000,000
Complete Streets Improvements Pollard Ave (Future Project - Pending Funding)	1,000,000
<b>Total Potential Project List</b>	<b>\$4,660,000</b>
<b>Total Designated and Unfunded Projects</b>	<b>5,564,599</b>
<b>Current Funding Shortfall</b>	<b>(\$3,119,916)</b>

**TOWN OF LOS GATOS**  
**ANNUAL STATUS REPORT ON RECEIPT AND USE OF DEVELOPMENT IMPACT FEES**  
**JUNE 30, 2021**  
***(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**

<u>Beginning Cash Balance (07/01/2020)</u>	<u>\$0</u>
<b>Source of Funds</b>	
Fees Collected FY 20/21	425,170
Interest Earned FY 20/21 (Funds expended upon receipt)	-
<b>Total Source of Funds</b>	<b>\$425,170</b>
<b>Use of Funds</b>	
Business Services Charge	
Capital Outlay:	
Street Repair and Resurfacing Project FY 20/21	234,246
<b>Total Use of Funds</b>	<b>234,246</b>
<u>Ending Cash Balance (6/30/2021) Pre-Final Audit</u>	<u>\$190,924</u>
<b>Designated Future Projects</b>	
Per FY 21/22 through FY 25/26 Capital Improvement Plan:	
Street Repair and Resurfacing Project	\$7,725,803
<b>Total Designated Future Projects</b>	<b>\$7,725,803</b>
<b>Current Funding Shortfall</b>	<b>(\$7,534,879)</b>

**TOWN OF LOS GATOS**  
**ANNUAL STATUS REPORT ON RECEIPT AND USE OF DEVELOPMENT IMPACT FEES**  
**JUNE 30, 2021**  
*(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**

<b>Beginning Cash Balance (07/01/2020)</b>	<b>\$3,795,807</b>
<b>Source of Funds</b>	
Fees Collected FY 20/21	-
Interest Earned FY 20/21	52,362
<b>Total Source of Funds</b>	<b>\$3,848,168</b>
<b>Use of Funds</b>	
Program Operating Expense	249,016
Staff Administration	23,000
<b>Total Use of Funds</b>	<b>\$272,016</b>
<b>Ending Cash Balance (6/30/2021) Pre-Final Audit</b>	<b>\$3,576,152</b>
<b>Designated Future Projects:</b>	
Affordable Housing Loans - Dittos Lane (11/3/2020 Council Meeting)	\$1,200,000
Anticipated Construction Permit Support	\$50,000
<b>Total Designated Future Projects</b>	<b>\$1,250,000</b>
<b>Potential Future Projects</b>	
Low and Moderate Income Housing (Future Project - Pending Funding)	\$3,000,000
Reacquisition of Distressed/Foreclosed Properties (Future Project - Pending Funding)	700,000
Hello Housing and House Keys Program Services (Future Project - Pending Funding -5 Year Total)	600,000
<b>Total Potential Future Projects</b>	<b>\$4,300,000</b>
<b>Current Funding Shortfall</b>	<b>(\$1,973,848)</b>

**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.