



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 12/6/2022

ITEM NO: 3

DATE: November 28, 2022
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Receive Fiscal Year (FY) 2021/22 Status Report on Receipt and Use of Development Impact Fees

RECOMMENDATION:

Receive Fiscal Year (FY) 2021/22 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, 2022, all accounts or funds with unspent balances have been credited interest revenue at the Town's current interest rate earned on its total.

PREPARED BY: Gitta Ungvari
Finance Director

Reviewed by: Town Manager, Town Attorney, Assistant Town Manager, CDD Director, and PPW Director

SUBJECT: Receive Fiscal Year (FY) 2021/22 Status Report on Receipt and Use of
Development Impact Fees
DATE: November 28, 2022

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 2021/22 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, 2022 to demonstrate that the fees will be used for their respective purposes.

CONCLUSION:

Staff recommends Council receive the FY 2021/22 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.

PAGE 3 OF 3

SUBJECT: Receive Fiscal Year (FY) 2021/22 Status Report on Receipt and Use of
Development Impact Fees

DATE: November 28, 2022

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 2021/22 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, 2022

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, \$1,015 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 (07/01/2021)	2,444,683
Source of Funds	
Fees Collected FY 21/22	82,449
Interest Earned FY 21/22	24,251
Total Source of Funds	\$2,551,383
Use of Funds	
Capital Outlay:	
Traffic Signal Modernization	517,791.36
Traffic Mitigation (Admin Support)	10,000
Total Use of Funds	\$527,791
Expenses Incurred in FY 2020/21 , Paid in July of FY 2021/22	(122,158)
Expenses Incurred in FY 2021/22, Paid in July of FY 2022/23	193,307
Ending Cash Balance (6/30/2022) Pre-Final Audit	\$2,094,740
Designated Future Projects:	
Per FY 22/23 through 26/27 Capital Improvement Plan:	
Traffic Signal Modernization	\$256,282
Bicycle & Pedestrian Improvements	33,650
Highway 17/9 Interchange and Capacity Improvements	600,000
Total CIP and Operating Budget Commitments	\$889,932
Potential Project List (Estimates Only)	
Shannon Road Stabilization Project (Future Project - Pending Funding)	\$1,500,000
Complete Streets Improvements Pollard Ave (Future Project - Pending Funding)	1,000,000
Total Potential Project List	\$2,500,000
Total Designated and Unfunded Projects	\$3,389,932
Current Funding Shortfall	(\$1,295,192)

TOWN OF LOS GATOS
ANNUAL STATUS REPORT ON RECEIPT AND USE OF DEVELOPMENT IMPACT FEES
JUNE 30, 2022
(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 \$1.26 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

	\$0
Beginning Cash Balance (07/01/2021)	\$0
Source of Funds	
Fees Collected FY 21/22	420,055
Interest Earned FY 21/22 (Funds expended upon receipt)	-
Total Source of Funds	\$420,055
Use of Funds	
Business Services Charge	
Capital Outlay:	
Street Repair and Resurfacing Project FY 21/22	1,787,018
Total Use of Funds	1,787,018
Ending Cash Balance (6/30/2022) Pre-Final Audit	(\$1,366,963)
Designated Future Projects	
Per FY 22/23 through 26/27 Capital Improvement Plan:	
Street Repair and Resurfacing Project	\$8,588,638
Total Designated Future Projects	\$8,588,638
Current Funding Shortfall	(\$9,955,601)

TOWN OF LOS GATOS
ANNUAL STATUS REPORT ON RECEIPT AND USE OF DEVELOPMENT IMPACT FEES
JUNE 30, 2022
(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 (07/01/2021)	3,576,152.38
Source of Funds	
Fees Collected FY 21/22	-
Interest Earned FY 21/22	39,896
One-time transfer from GFAR reserve to BMP	1,489,778
Total Source of Funds	5,105,826.87
Use of Funds	
Program Operating Expense	184,289
Staff Administration	23,000
Affordable Housing Loans - Dittos Lane (11/3/2020 Council Meeting)	1,200,000
Total Use of Funds	1,407,289
Ending Cash Balance (6/30/2022) Pre-Final Audit	\$3,698,538
Designated Future Projects:	
Anticipated Construction Permit Support	\$50,000
Total Designated Future Projects	\$50,000
Potential Future Projects	
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
Total Potential Future Projects	\$4,300,000
Current Funding Shortfall	(\$651,462)

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.

TOWN OF LOS GATOS
ANNUAL STATUS REPORT ON RECEIPT AND USE OF DEVELOPMENT IMPACT FEES
JUNE 30, 2022

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, \$1,015 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 (07/01/2021)	2,444,683
Source of Funds	
Fees Collected FY 21/22	82,449
Interest Earned FY 21/22	24,251
Total Source of Funds	\$2,551,383
Use of Funds	
Capital Outlay:	
Traffic Signal Modernization (42% of the Project Estimated Life-Time Cost)	517,791.36
Traffic Mitigation - Admin Support (100% of FY 2021/22 Expenditures)	10,000
Total Use of Funds	\$527,791
Expenses Incurred in FY 2020/21, Paid in July of FY 2021/22	(122,158)
Expenses Incurred in FY 2021/22, Paid in July of FY 2022/23	193,307
Ending Cash Balance (6/30/2022) Pre-Final Audit	\$2,094,740
Designated Future Projects:	
Per FY 22/23 through 26/27 Capital Improvement Plan:	
Traffic Signal Modernization (42% of the Project Estimates Life-Time Cost)	\$256,282
Bicycle & Pedestrian Improvements (3% of the Project Estimated Life-Time Cost)	33,650
Highway 17/9 Interchange and Capacity Improvements (41% of the Project Estimates Life Time Cost)	600,000
Total CIP and Operating Budget Commitments	\$889,932
Potential Project List (Estimates Only)	
Shannon Road Stabilization Project (Future Project - Pending Funding)	\$1,500,000
Complete Streets Improvements Pollard Ave (Future Project - Pending Funding)	1,000,000
Total Potential Project List	\$2,500,000
Total Designated and Unfunded Projects	\$3,389,932
Current Funding Shortfall	(\$1,295,192)

TOWN OF LOS GATOS
ANNUAL STATUS REPORT ON RECEIPT AND USE OF DEVELOPMENT IMPACT FEES
JUNE 30, 2022
(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 \$1.26 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 (07/01/2021)	\$0
Source of Funds	
Fees Collected FY 21/22	420,055
Interest Earned FY 21/22 (Funds expended upon receipt)	-
Total Source of Funds	\$420,055
Use of Funds	
Business Services Charge	
Capital Outlay:	
Street Repair and Resurfacing Project FY 21/22 (FY 2021/22 Fees Collected Cover 23.5% of FY 2021/22 Expenditures)	1,787,018
Total Use of Funds	1,787,018
Ending Cash Balance (6/30/2022) Pre-Final Audit	(\$1,366,963)
Designated Future Projects	
Per FY 22/23 through 26/27 Capital Improvement Plan:	
Street Repair and Resurfacing Project	\$8,588,638
Total Designated Future Projects	\$8,588,638

TOWN OF LOS GATOS
ANNUAL STATUS REPORT ON RECEIPT AND USE OF DEVELOPMENT IMPACT FEES
JUNE 30, 2022
(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 (07/01/2021)	3,576,152.38
Source of Funds	
Fees Collected FY 21/22	-
Interest Earned FY 21/22	39,896
One-time transfer from GFAR reserve to BMP	1,489,778
Total Source of Funds	5,105,826.87
Use of Funds	
Program Operating Expense <small>(100% of FY 2021/22 Expenditures)</small>	184,289
Staff Administration <small>(100% of FY 2021/22 Expenditures)</small>	23,000
Affordable Housing Loans - Dittos Lane (11/3/2020 Council Meeting) <small>(100% of FY 2021/22 Expenditures)</small>	1,200,000
Total Use of Funds	1,407,289
Ending Cash Balance (6/30/2022) Pre-Final Audit	\$3,698,538
Designated Future Projects:	
Anticipated Construction Permit Support	\$50,000
Total Designated Future Projects	\$50,000
Potential Future Projects	
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
Total Potential Future Projects	\$4,300,000
Current Funding Shortfall	(\$651,462)

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.



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 12/6/2022

ITEM NO: 3

DESK ITEM

DATE: December 6, 2022
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Receive Fiscal Year (FY) 2021/22 Status Report on Receipt and Use of Development Impact Fees

REMARKS:

After the publication of the staff report, further staff review indicated that the FY 2021/22 Status Report on Receipt and Use of Development Impact Fees Report should, in addition to the identification of each public improvement on which the fees were expended and the amount of the expenditure on each improvement, also list the total percentage of the cost of the public improvement that was funded with fees. Staff included the additional information (red lined) that can be found in Attachment 2 of this Desk Item.

Attachment Previously Received with the Staff Report:

1. FY 2021/22 Annual Status Report on Receipt and Use of Development Impact Fees.

Attachment Received with this Desk Item:

2. Modified FY 2021/22 Annual Status Report on Receipt and Use of Development Impact Fees.

PREPARED BY: Gitta Ungvari
Finance Director

Reviewed by: Town Manager, Town Attorney, Assistant Town Manager, Community Development Director, and Parks and Public Works Director
