



EARLY RELEASE OF STAFF REPORT FOR THE DECEMBER 17, 2013, CITY COUNCIL MEETING

**The following staff report is being released in advance
of the normal Council packet distribution:**

**Review of the Annual Report on the Status of the Transportation Impact,
Storm Drainage, Recreation in Lieu, and Building Construction Road
Impact Fees Collected as of June 30, 2013, According to Government Code
Section 66000 et seq. ([Staff Report #113-197](#))**

**THE NEXT REGULAR CITY COUNCIL MEETING IS
December 3, 2013**

This Notice is posted in Accordance with Government Code Section 54954.2(a) or Section 54956.
(Date Posted: 12/02/13)

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ADMINISTRATIVE SERVICES DEPARTMENT

Council Meeting Date: December 17, 2013
Staff Report #: 13-197

Agenda Item #: D-3

CONSENT CALENDAR: **Approval of the Annual Report on the Status of the Transportation Impact, Storm Drainage, Recreation in Lieu, and Building Construction Road Impact Fees Collected as of June 30, 2013, According to Government Code Section 66000 et seq.**

RECOMMENDATION

Staff recommends the City Council approve the annual report on the status of the transportation impact, storm drainage, recreation in-lieu, and building construction road impact fees. Staff also recommends that Council make the following findings regarding these fees and unexpended funds:

1. Transportation impact fees, storm drainage fees, recreation in lieu fees, and building construction road impact fees are collected to mitigate direct and indirect impacts from development.
2. 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.
3. There is a reasonable relationship between these impact fees and their purpose.
4. 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.

BACKGROUND

Cities and counties often charge fees on new development to fund public improvements to mitigate the impact of development activity. These fees are commonly known as development impact fees. In 1989, the State Legislature passed Assembly Bill 1600 (AB1600), which added Sections 66000 et seq. to the California Government Code, commonly known as the Mitigation Fee Act.

As required by law, these fees are segregated from the General Fund and accounted for as special revenue funds. Government Code Section 66001 requires that the City make available to the public information regarding development impact fees for each fund within 180 days after the end of each fiscal year:

- 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 the 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 the approximate date by which construction of a 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 interfund transfer or loan made from an account or fund.

Further, Government Code Section 66000 et. seq. also requires that findings describing the continuing need for impact fees be made every five years specifying the intended use of any unexpended impact fees, regardless of whether the fees are committed or uncommitted. Failure to make such findings subjects the City to going through a refunding procedure. This report meets the requirements to comply with the Mitigation Fee Act.

ANALYSIS

Transportation Impact Fees

The transportation impact fee is levied to fund improvements or programs to mitigate City traffic problems that result either directly or indirectly from development projects. In 1991, a draft interim Traffic Mitigation Fee Study (nexus study) was prepared on the basis of growth projections and transportation improvement measures in the draft General Plan, which was adopted in 1994. From that nexus study, the following fees were used on new discretionary projects through conditions placed on development projects starting in 1995:

- Commercial Development: \$1.60 per square foot
- Residential Development: \$708 per dwelling unit

Early in fiscal year 2009-10, the City concluded a Transportation Impact Fee Study, which enabled staff to recommend an update to the existing fees and create a more systematic way for applying the fees. As a result, a new fee structure was put in place for these fees effective December 6, 2009. As no fees were assessed that fiscal year under the new structure, the fund remained entitled Traffic Impact Fee Fund for financial reporting purposes. Beginning in fiscal year 2010-11, the fund name was changed to Transportation Impact Fee Fund, retaining the same AB1600 time limits and reporting requirements.

The following table summarizes the activity for the Transportation Impact Fee Fund from FY 2008-09 through FY 2012-13.

	2008-09	2009-10	2010-11	2011-12	2012-13
Funds that do not qualify for AB 1600 Calculation:					
Beginning balance	\$336,490	\$349,484	\$353,796	\$363,261	\$1,511,565
Interest earnings	12,994	4,312	9,465	178	(1,267)
Other Intergovernmental Revenue	0	0	0	0	120,000
Developer Fees	0	0	0	1,233,000	0
Expenditures	0	0	0	(84,874)	0
Total	\$349,484	\$353,796	\$363,261	\$1,511,565	\$1,630,298
Citywide Impact Fees:					
Beginning balance	633,535	319,345	217,968	1,487,136	1,257,980
Developer Fees	0	51,520	1,419,010	57,256	176,058
Interest earnings	16,881	4,645	12,395	24,697	(995)
Expenditures	(265,880)	(222,787)	(199,226)	(164,759)	(524,160)
Encumbrances - prior year	39,614	104,805	39,560	2,571	148,921
Encumbrances - current year	(104,805)	(39,560)	(2,571)	(148,921)	(24,555)
Ending Balance	\$319,345	\$217,968	\$1,487,136	\$1,257,980	\$1,033,249
Total Unencumbered Fund Balance	\$668,829	\$571,764	\$1,850,397	\$2,769,545	\$2,663,547

As shown above, there are two fee categories within the Transportation Impact Fee Fund's balance:

- 1. Funds that do not qualify for Code Section 66001 Calculation:** This portion of the Fund balance reflects funds that were collected prior to the 1989 effective date of the Mitigation Fee Act and are, therefore, not subject to the Mitigation Fee Act. In addition, fees negotiated as part of a development outside of Menlo Park's jurisdiction (but still creating transportation impacts) are not subject to the Act. These funds will be used for traffic improvement programs citywide. The corresponding interest income is allocated on the basis of the fund balance.
- 2. Citywide:** The citywide impact fees collected after the enactment of Code Section 66001 will be used for improvements and/or to mitigate traffic issues citywide.

Expenditures and commitments of the fund during the year included the installation of a new traffic signal at the intersection of Elder Avenue with Santa Cruz Avenue, the Alpine Road Bike Improvements, and an in-pavement lighted crosswalk system at the crossing of Middlefield Road at Linfield Drive. The grand total of the Transportation Impact Fee Fund balance available at the end of fiscal year 2012-13 is \$2,663,547. The below table identifies specific expenditures from the Transportation Impact Fee Fund in 2012-13.

	Project Expended	Impact Fees Used	% of Project
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Storm Drainage Impact Fees:

Projects:

Strom Drain Improvements -Middlefield Improvement Study	\$80,973	\$80,973	100%
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Storm Drainage Fees

The Storm Drainage Fee, which commenced prior to 1989, is levied to mitigate City storm drainage impacts either directly or indirectly resulting from development projects. The fees are charged for property development as shown in the City’s Master Fee Schedule:

Storm drainage connection fees

- Single family - per lot \$450.00
- Multiple family – per unit \$150.00
- Industrial and Commercial – per square foot of impervious area \$ 0.24

The following table captures the activities associated with storm drainage fees from FY 2008-09 through FY 2012-13 for AB1600 purposes:

	2008-09	2009-10	2010-11	2011-12	2012-13
Storm Drainage Impact Fees:					
Beginning balance	234,247	253,843	258,670	184,451	188,015
Developer Fees	9,964	900	23,235	2,594	5,945
Interest Income/(Expense)	9,632	3,927	2,546	970	(94)
Expenditures	0	0	(100,000)	0	(80,973)
Encumbrances - current year	0	0	0	0	(11,779)
Ending Balance	253,843	258,670	184,451	188,015	101,114
Grand Total - Fund Balance	253,843	258,670	184,451	188,015	101,114

Storm drainage fees in the amount of \$5,945 were collected from developers in 2012-13. The Storm Drainage Fee Fund has provided for improvements that were identified in the Storm Drain Master Plan as high priority. When the preliminary design of a storm drainage system is complete, this revenue will contribute to the construction of a project in fiscal year 2015-16 that prevents flooding on Middlefield Road from the San Francisquito Creek. The below table identifies specific expenditures of the Storm Drainage Fee Fund in 2012-13.

	Project Expended	Impact Fees Used	% of Project
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Storm Drainage Impact Fees:

Projects:

Strom Drain Improvements -Middlefield Improvement Study	\$80,973	\$80,973	100%
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Recreation In-Lieu Fees

The Recreation In-Lieu fee, that commenced prior to 1989, is collected from developers to improve and expand recreation facilities in lieu of providing new on-site facilities. The fee is charged on new residential development as shown in the City's Master Fee Schedule:

RECREATION FEES

- Single Family (RE and R-1):
- Multiple Family Development (R-2, R-3, RC, RLU and PD):
- 0.013 X number of units X market value of acreage to be subdivided
- 0.008 X number of units X market value of acreage to be subdivided

The following table captures the activities associated with recreation in lieu fees from FY 2008-09 through FY 2012-13.

	2008-09	2009-10	2010-11	2011-12	2012-13
Recreation In-Lieu Impact Fees:					
Beginning balance	3,391,983	3,585,116	3,905,058	557,893	470,091
Developer Fees	64,000	256,000	89,847	212,000	896,000
Interest Income/(Expense)	136,476	61,379	28,151	(6,026)	(1,588)
Expenditures	(11,396)	(1,457)	(439,951)	(3,325,127)	(200,000)
Encumbrances - prior year	14,212	10,159	6,139	3,031,351	0
Encumbrances - current year	(10,159)	(6,139)	(3,031,351)	0	0
Ending Balance	3,585,116	3,905,058	557,893	470,091	1,164,503

Grand Total - Fund Balance	3,585,116	3,905,058	557,893	470,091	1,164,503
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	Project Expended	Impact Fees Used	% of Project
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Recreation In-Lieu Fees:

Projects:

Hillview School Field Renovation	\$200,000	\$200,000	100%
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The amount of recreation in-lieu fees collected in 2012-13 totaled \$896,000 from six small residential developments and one multi-family development. The outstanding available balance in the Recreation In-Lieu Fee Fund at the end of FY 2012-13 is \$1,164,503 after spending \$200,000 for the second partial payment to the Menlo Park City School District for the Hillview School Field Renovation Project.

Building Construction Road Impact Fees

The Building Construction Impact fee that took effect in November 2005 was adopted to recover the cost of repairing damage to streets caused by construction-related vehicle traffic. On August 5, 2008, Council adopted a resolution extending this fee beyond the three-year sunset provision initially established. The fee amounts to 0.58 percent of a construction project's value. Residential alteration and repairs, as well as all projects under \$10,000, are exempt from the fee.

As of June 30, 2013, \$4,751,551 has been collected for this fee. The \$691,793 collected in the most recent fiscal year was assessed on approximately 400 construction projects.

	2008-09	2009-10	2010-11	2011-12	2012-13
Building Construction Road Impact Fees:					
Beginning balance	2,158,579	2,455,467	2,836,121	1,419,552	1,304,667
Developer Fees	436,732	357,162	534,041	680,152	691,793
Street Department Fees	0	0	0	2,800	0
Interest Income/(Expense)	94,110	46,918	21,275	15,921	(2,792)
Expenditures	(231,532)	(23,426)	(1,255,643)	(217,521)	(1,205,493)
Encumbrances - prior year	0	2,422	2,422	718,664	1,314,899
Encumbrances - current year	(2,422)	(2,422)	(718,664)	(1,314,901)	(339,862)
Ending Balance	<u>2,455,467</u>	<u>2,836,121</u>	<u>1,419,552</u>	<u>1,304,667</u>	<u>1,763,212</u>
Grand Total - Fund Balance	2,455,467	2,836,121	1,419,552	1,304,667	1,763,212

	Project Expended	Impact Fees Used	% of Project
Building Construction Road Impact Fees:			
<u>Projects:</u>			
Street Resurfacing Project	\$1,000,000	\$1,000,000	100%
STPL Federal Aide Resurfacing	\$159,403	\$159,403	100%
<u>Cost sharing with General Fund:</u>			
Street Maintenance		\$46,090	

Fiscal year 2012-13 was the fifth year that expenditures were made from this source of funds. The City's 2011-12 Street Resurfacing bi-annual project and the 2012 Street Resurfacing of Federal Aid Route Project, just recently completed (\$1,159,403) funded

from the Building Construction Impact Fee Fund. In addition, to maintain key services to the community, staff utilized short-term options to balance the General Fund in previous years by charging to this fund a portion of a street maintenance position for maintaining medians, parking plazas, and 13 miles of right-of-way.

IMPACT ON CITY RESOURCES

There is no impact on City resources since all qualified impact fees held by the City for over five years are either spent or committed as appropriate.

POLICY ISSUES

The report does not represent any change to existing City policy.

ENVIRONMENTAL REVIEW

This report is not subject to the California Environmental Quality Act.

PUBLIC NOTICE

Public notification was achieved by posting the availability of the report 15 days prior to the meeting.

ATTACHMENTS

None

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