



DATE: December 8, 2015

CATEGORY: Consent

DEPT.: Finance and Administrative Services

TITLE: **Annual Compliance Report for Development Impact Fees and Informational Reporting of Other Fee as of June 30, 2015**

RECOMMENDATION

1. Acknowledge and file the Fiscal Year 2014-15 Annual Compliance Report for the Below-Market-Rate Housing, Housing Impact, Rental Housing Impact, Downtown Parking In-Lieu, and Wastewater Development Impact Funds.
2. Acknowledge and file the Fiscal Year 2014-15 informational report for the Park Land Dedication Fund.
3. Adopt a Resolution Finding There Remains a Reasonable Relationship Between Current Needs for the Housing Impact Funds and the Purposes for Which They Were Originally Charged (GC 66000 *et seq.*), to be read in title only, further reading waived (Attachment 1 to the Council report).

BACKGROUND

The California Government Code (GC) Section 666006(b)(1)(A-F) requires local agencies, within 180 days after the last day of each fiscal year (FY), to make available to the public certain information for the fiscal year and GC Section 66006(b)(2) requires the information be made available to the public at least 15 days prior to City Council consideration of this report and was included on the October 27, 2015 City Council agenda in compliance with GC 66006(b)(2).

This report discusses the Below-Market-Rate (BMR) Housing, Housing Impact, Rental Housing Impact, Downtown Parking In-Lieu, and Wastewater Development Impact Funds. In addition, Code Section 66001(d)(1) requires local agencies to make findings with respect to fees and investment earnings remaining unexpended, whether committed or uncommitted, for the fifth year following receipt and every five years thereafter. The City's practice is to include this information annually in this report instead of every five years.

As defined in GC Section 66000(b), “fee” does not include fees specified in GC Section 66477 (Quimby Act) which governs the City’s Park Land Dedication (PLD) Fee and does not require annual reporting. The PLD Fund is included in this report to verify compliance with GC Section 66477(6)(A) regarding commitment of PLD fees within five years after receipt or issuance of the building permit, whichever occurs later.

ANALYSIS

1. Below-Market-Rate Housing Fund

On January 12, 1999, the Council adopted Ordinance 1.99, amending Chapter 36, Article X, of the Mountain View City Code to establish a BMR Housing Program which became effective on March 15, 1999, and adopted the BMR Housing Program Administrative Guidelines on January 26, 1999 by Resolution 16316. The BMR Housing Program requires at least 10.0 percent of the units in new ownership housing developments over a certain size be provided to moderate-income households or an in-lieu fee be paid by the developer. The BMR requirement for 10.0 percent affordable rental units is not being applied due to the *Palmer* court decision.

Description of the Type of Fee – GC Section 66006(b)(1)(A):

Developers of ownership projects may be allowed to pay an in-lieu fee to fund the improvement and development of low-income housing instead of providing the required BMR housing units in the project.

Amount of Fee – GC Section 66006(b)(1)(B):

3.0 percent of the sales price of each unit in the development.

Beginning and Ending Balances, Amount of Fees Collected, and Interest Earned –
GC Section 66006(b)(1)(C & D):

Beginning Balance, July 1, 2014		\$16,958,504
BMR In-Lieu Fees	\$4,609,505	
Investment Earnings	<u>225,387</u>	
Total Audited Revenues		4,834,892
Total Audited Expenditures		<u>(1,709,303)</u>
Unexpended Balance		20,084,093
Reserved by City Council for NOFA Affordable Housing Projects (779 East Evelyn and 819 Rengstorff Avenues)		<u>(15,485,657)</u>
Available Balance, June 30, 2015		<u>\$ 4,598,436</u>

As of June 30, 2015, there is an unexpended BMR balance of \$20.1 million. On December 16, 2014, City Council reserved \$15.5 million of this unexpended balance for the East Evelyn Avenue Notice of Funding Availability (NOFA) project. The available BMR balance of \$4.6 million includes \$1.0 million reserved for the Mountain View Employee Homebuyer Program and the remaining \$3.6 million is reserved for a 60-unit affordable housing project at 1701-1707 West El Camino Real, which was discussed with Council on October 20, 2015.

Identification of Each Public Improvement on Which Fees Were Expended in FY
2014-15 – GC Section 66006(b)(1)(E) (dollars in thousands):

	Total Project Cost	FY 2014-15 BMR Expenditures	% Project Funded by Expended BMR Funds	% Budgeted BMR Funds Expended
819 North Rengstorff Avenue Affordable Studios	\$17,397	\$ 763	51.5%	99.5%
1585 West El Camino Real Affordable Studios	\$10,468	367	25.1%	100.0%
779 East Evelyn Avenue NOFA (Predevelopment only)	\$ 1,366	62	4.5%*	5.5%
Administration of BMR Housing Program and Fees	NA	<u>517</u>	100.0%	100.0%
		<u>\$1,709</u>		

*Percent of projected project cost

Identification of Approximate Date by Which Construction Will Commence – GC Section 66006(b)(1)(F):

Both the 819 North Rengstorff Avenue Affordable Studios and 1585 West El Camino Real Affordable Studios projects were completed in early 2015. However, there is a payment remaining for the 819 North Rengstorff Avenue Affordable Studios project that will be made in FY 2015-16. The East Evelyn Avenue project is going through the entitlement process and if Council approves the entitlements, the developer will apply for tax credit funding to complete the project funding. After this process has been completed, it will be possible to determine an approximate construction commencement date.

Description of Each Interfund Transfer and Interfund Loan Made From the Fund – GC Section 66006(b)(1)(G):

No Interfund Transfers or Interfund Loans were made from this Fund.

Amount of Refunds Made – GC Section 66006(b)(1)(H):

No refunds were made from this Fund.

Findings for Amounts Remaining Unexpended – GC Section 66001(d)(1):

In accordance with GC Section 66001(d)(1), the City is reporting that as of June 30, 2015, no fees or investment earnings remain unexpended for the fifth year following deposit of these fees or investment earnings into the BMR Fund.

2. **Housing Impact Fund**

On January 8, 2002, the Council adopted Ordinance 01-02, amending Chapter 36 of the City Code to implement a Housing Impact (HI) Fee to be used to fund affordable housing projects and programs.

Description of the Type of Fee – GC Section 66006(b)(1)(A):

All nonresidential developments with new and increased floor area are assessed on a per-square-foot basis. The Housing Impact fees and any investment earnings shall be used to increase and improve the supply of affordable housing to moderate- and lower-income households.

Amount of Fee – GC Section 66006(b)(1)(B):

Office/High-Tech/Industrial	
First 10,000 square feet	\$12.50/net square foot
10,000+ square feet	\$25.00/net square foot
Hotel/Retail/Commercial/Entertainment	
First 25,000 square feet	\$1.34/square foot
25,000+ square feet	\$2.68/square foot

Beginning and Ending Balances, Amount of Fees Collected, and Interest Earned – GC Section 66006(b)(1)(C & D):

Beginning Balance, July 1, 2014		\$6,699,018
Housing Impact Fees	\$1,923,485	
Investment Earnings	<u>90,458</u>	
Total Audited Revenues		2,013,943
Total Audited Expenditures		<u>(188,899)</u>
Unexpended Balance		8,524,062
Reserved by City Council for NOFA		
Affordable Housing Project		
(779 East Evelyn Avenue)		<u>(5,959,517)</u>
Available Balance, June 30, 2015		<u>\$2,564,545</u>

As of June 30, 2015, there is an unexpended HI Fund balance of \$8.5 million, \$6.0 million of which has been reserved or encumbered for the East Evelyn Avenue NOFA low-income housing project. Reservation of the remaining \$2.6 million for the affordable housing project at 1701-1707 West El Camino Real was discussed with Council on October 20, 2015.

Identification of Each Public Improvement on Which Fees Were Expended in FY 2014-15 – GC Section 66006(b)(1)(E) (dollars in thousands):

	Total Projected Cost of Project	FY 2014-15 HI Expenditures	% Project Funded by Expended HI Fees	% Budgeted HI Funds Expended
779 East Evelyn Avenue (predevelopment only)	\$1,366	\$ 41	3.0%	16.5%
Administration of Housing Impact Program and Fees	N/A	<u>148</u> <u>\$189</u>	100.0%	100.0%

Identification of Approximate Date by Which Construction Will Commence – GC
Section 66006(b)(1)(F):

Additional outside funding is needed to complete the East Evelyn Avenue project. If Council approves the entitlements, the developer will apply for tax credit funding to complete the project funding. Once this process is completed, it will be possible to determine an approximate construction commencement date.

Description of Each Interfund Transfer and Interfund Loan Made From the Fund –
GC Section 66006(b)(1)(G):

No Interfund Transfers or Interfund Loans were made from this Fund.

Amount of Refunds Made – GC Section 66006(b)(1)(H):

No refunds were made from this Fund.

Findings for amounts remaining unexpended – GC Section 66001(d)(1):

In accordance with GC Section 66001(d)(1), the City is reporting that as of June 30, 2015, \$94,528 of fees and investment earnings remain unexpended for the fifth year following deposit of these fees or investment earnings into the Housing Impact Fund.

(A) Identify the purpose to which the fee is to be put.

The Housing Impact funds will be used to fund additional moderate- and lower-income housing in the City.

(B) Demonstrate a reasonable relationship between the fee and the purpose for which it is charged.

The City Council conducted a housing needs assessment as part of the 2015-2023 Housing Element, and has identified a continuing need for additional moderate- and lower-income housing in the City. Housing units affordable to households with extremely low, very low, and low incomes are in very short supply in Mountain View and other available housing subsidies are inadequate to meet the need created by new nonresidential development. A reasonable relationship exists between the Housing Impact fees and the

purpose for which said fees were charged as demonstrated by the Jobs Housing Nexus Study, dated November 2012, and prepared by Keyser Marston Associates, Inc.

- (C) Identify all sources and amounts of funding anticipated to complete financing in incomplete improvements.

As previously mentioned, the East Evelyn Avenue project will require outside funding which will not be in place until after the project receives entitlements.

- (D) Designate the approximate dates on which the funding referred to in Subparagraph (C) is expected to be deposited into the appropriate account or fund.

The timing of receipt of the outside funding is unknown at this time.

3. **Rental Housing Impact Fund**

On December 11, 2012, the Council adopted Resolution No. 17748 allowing for a Rental Housing Impact Fee to be imposed on all new market-rate rental housing developments.

Description of the Type of Fee – GC Section 66006(b)(1)(A):

With City Council approval, a developer may pay the fee or choose an equivalent alternative to the fee that may include construction of affordable housing units, dedication of land, or other equivalent options. The Rental Housing Impact fees and any investment earnings shall be used for increasing and improving the supply of moderate- to very low-income rental housing.

Amount of Fee – GC Section 66006(b)(1)(B):

\$17.00 per net new habitable square foot.

Beginning and Ending Balances, Amount of Fees Collected, and Interest Earned –
GC Section 66006(b)(1)(C & D):

Beginning Balance, July 1, 2014		\$2,751,202
Rental Housing Impact Fees	\$92,556	
Investment Earnings	<u>31,615</u>	
Total Audited Revenues		124,171
Total Audited Expenditures		<u>-0-</u>
Available Balance, June 30, 2015		<u>\$2,875,373</u>

A reservation of \$1.8 million of the \$2.9 million unexpended Rental Housing Impact Fund available balance was approved at the October 20, 2015 Council meeting for the affordable housing project at 1701-1707 West El Camino Real.

Identification of Each Public Improvement on Which Fees Were Expended in FY
2014-15 – GC Section 66006(b)(1)(E):

As noted above, there was no expenditure of Rental Housing Impact funds during Fiscal Year 2014-15.

Identification of Approximate Date by Which Construction Will Commence – GC
Section 66006(b)(1)(F):

Insufficient funds have been collected at this point to complete financing on a public improvement.

Description of Each Interfund Transfer and Interfund Loan Made From the Fund –
GC Section 66006(b)(1)(G):

No Interfund Transfers or Interfund Loans were made from this Fund.

Amount of Refunds Made – GC Section 66006(b)(1)(H):

No refunds were made from this Fund.

Findings for Amounts Remaining Unexpended – GC Section 66001(d)(1):

In accordance with GC Section 66001(d)(1), the City is reporting that as of June 30, 2015, no fees or investment earnings remain unexpended for the fifth year following deposit of these fees or investment earnings into the Rental Housing

Impact Fund. The Rental Housing Impact Fee was adopted less than five years ago and findings are not yet required.

4. **Downtown Parking In-Lieu Fund**

Description of the Type of Fee – GC Section 66006(b)(1)(A):

The Downtown Precise Plan requires, as a condition of approval for development within the Downtown Parking District, that the developer or owner shall provide the required on-site parking, pay the one-time Parking In-Lieu Fee established by Council, or a combination of the two.

Amount of Fee – GC Section 66006(b)(1)(B):

The fee was increased in 2000 to \$26,000 per parking space and is utilized to provide additional shared public parking facilities. The fee can vary depending on the location of the property and the use, but not exceed the amount adopted in 2000.

Beginning and Ending Balances, Amount of Fees Collected, and Interest Earned – GC Section 66006(b)(1)(C & D):

Beginning Balance, July 1, 2014		\$5,666,031
Parking In-Lieu Fees	\$ -0-	
Investment Earnings	<u>63,535</u>	
Total Audited Revenues		63,535
Total Audited Expenditures		<u>-0-</u>
Available Balance, June 30, 2015		<u>\$5,729,566</u>

There were no fees assessed and no expenditure of funds in Fiscal Year 2014-15. With the investment earnings from Fiscal Year 2014-15, there is an unexpended available balance of \$5.7 million as of June 30, 2015. This available balance is under discussion as an important piece of the funding required to create additional shared public parking facilities in the Downtown Parking District.

Identification of Each Public Improvement on Which Fees Were Expended in FY 2014-15 – GC Section 66006(b)(1)(E):

As noted above, there was no expenditure of Parking In-Lieu funds during Fiscal Year 2014-15.

Identification of Approximate Date by Which Construction Will Commence – GC Section 66006(b)(1)(F):

Insufficient funds have been collected to complete financing on a public improvement.

Description of Each Interfund Transfer and Interfund Loan Made From the Fund – GC Section 66006(b)(1)(G):

No Interfund Transfers or Interfund Loans were made from this Fund.

Amount of Refunds Made – GC Section 66006(b)(1)(H):

No refunds were made from this Fund.

Findings for Amounts Remaining Unexpended – GC Section 66001(d)(1):

In accordance with GC Section 66001(d)(1), the City is reporting that as of June 30, 2015, no fees or investment earnings remain unexpended for the fifth year following deposit of these fees or investment earnings into the Parking In-Lieu Fund.

5. **Wastewater Development Impact Fund**

Description of the Type of Fee – GC Section 66006(b)(1)(A):

These fees are assessed as a condition for new developments in order to mitigate a future deficiency in specific areas beyond the planned capacity of the wastewater system.

Amount of Fee – GC Section 66006(b)(1)(B):

The fee is the developers' contribution for their share of the required infrastructure improvements and is required as a condition of development. The fee amount varies depending on the type and size of the development.

Beginning and Ending Balances, Amount of Fees Collected, and Interest Earned –
GC Section 66006(b)(1)(C & D):

Beginning Balance, July 1, 2014		\$33,182
Wastewater Development Impact Fees	\$24,027	
Investment Earnings	<u>509</u>	
Total Audited Revenues		24,536
Total Audited Expenditures		<u>-0-</u>
Available Balance, June 30, 2015		<u>\$57,718</u>

As of June 30, 2015, there is an unexpended balance of \$57,718 in the Wastewater Development Impact Fund.

Identification of Each Public Improvement on Which Fees Were Expended in FY
2014-15 – GC Section 66006(b)(1)(E):

As noted above, there was no expenditure of Wastewater Development Impact funds during Fiscal Year 2014-15.

Identification of Approximate Date by Which Construction Will Commence – GC
Section 66006(b)(1)(F):

When it is necessary to increase the capacity of the system and a wastewater infrastructure improvement project is adopted for these specific areas of the City, the fees collected for the specific area will be utilized for project funding.

Description of Each Interfund Transfer and Interfund Loan Made From the Fund –
GC Section 66006(b)(1)(G):

No Interfund Transfers or Interfund Loans were made from this Fund.

Amount of Refunds Made – GC Section 66006(b)(1)(H):

No refunds were made from this Fund.

Findings for Amounts Remaining Unexpended – GC Section 66001(d)(1):

In accordance with GC Section 66001(d)(1), the City is reporting that as of June 30, 2015, no fees or investment earnings remain unexpended for the fifth year following deposit of these fees or investment earnings into the Wastewater

Development Impact Fund. The first Wastewater Development Fee was approved by Council less than five years ago and findings are not yet required.

Other Fee Not Subject to Annual Reporting

The Park Land Dedication (PLD) Fee discussed below is not subject to GC Section 66006 requiring annual reporting, but is subject to GC Section 66477(6)(A) and is included to report the commitment of PLD fees within five years after receipt or issuance of the building permit, whichever occurs later.

6. Park Land Dedication Fund

Park Land Dedication fees are collected as a condition of approval for any new residential development and used for park or recreational purposes. The City Council introduced an ordinance amending Chapter 41 of the Mountain View City Code relating to Park Land Dedication or Fees In-Lieu Thereof on September 8, 2015, and adopted on October 13, 2015. This annual report is based on Chapter 41 as it existed June 30, 2015. In addition, it has been determined that Park Land Dedication fees are not subject to annual reporting under GC Section 66477. However, staff will continue to report on this fee for informational purposes.

On November 28, 2006, the City Council amended the Park Land Dedication In-Lieu policy to establish objectives for use of Park Land Dedication In-Lieu fees as detailed below:

- Priority No. 1 – Acquisition
- Priority No. 2 – Development
- Priority No. 3 – Rehabilitation

Within each priority, first consideration goes to projects that are located within one mile of the development generating the fee and the next consideration is for projects that provide a communitywide asset. The Parks and Recreation Commission continues to review projects and forwards a recommendation to the City Council regarding commitment of both the available in-lieu fees received and the available investment earnings generated each fiscal year.

The beginning balance, revenues, expenditures, and available balance of the Park Land Dedication Fund for Fiscal Year 2014-15 are as follows:

Beginning Balance, July 1, 2014		\$37,315,366
Audited Revenues:		
Park Land Dedication Fees	\$12,836,368	
Investment Earnings	517,918	
Capital Projects Refunds	<u>18,541</u>	
Total Audited Revenues		<u>13,372,827</u>
Total Available		<u>50,688,193</u>
Audited Expenditures:		
2014-15 Adopted Capital Improvement Projects (CIPs)	(4,503,000)	
2014-15 Midyear CIPs	<u>(2,760,000)</u>	
Total Audited Expenditures		<u>(7,263,000)</u>
Unexpended Ending Balance, June 30, 2015		43,425,193
Total Committed by City Council for Specific Future Projects		<u>(24,397,106)</u>
Available Balance, June 30, 2015		<u>\$19,028,087</u>

Development fees, investment earnings, and capital project refunds total \$13.4 million and there are CIP expenditures totaling \$7.3 million. After deducting \$24.4 million in funds committed for future projects, there is an available balance of \$19.0 million as of June 30, 2015. However, as part of the Fiscal Year 2015-16 Adopted CIP, \$4.3 million is appropriated for projects and the commitment of Park Land Dedication funds for future CIPs increased to \$34.1 million. The remaining fees and investment earnings received during Fiscal Year 2014-15 that have not yet been committed will be brought to City Council later this fiscal year. As required by GC Section 66477(6)(A), all Park Land Dedication fees have been committed within five years after the payment of the fees or the issuance of building permits, whichever occurs later.

FISCAL IMPACT

The fees are available for the purposes indicated. Adoption of the resolution makes the required finding the Housing Impact funds are still needed for the purposes specified.

CONCLUSION

The funds discussed in the report comply with the requirements of the California Government Code for annual reporting regarding the collection and use of development fees and making a finding that the Housing Impact funds are still needed for the purpose specified. The Park Land Dedication Fund is in compliance with GC Section 66477(6)(A) regarding the commitment of PLD fees within five years of receipt or issuance of the building permit, whichever occurs later.

ALTERNATIVES

Do not adopt a resolution making a finding for the continued need for the Housing Impact funds. The City would no longer be able to hold these funds per California Government Code and would be required to refund the fees.

PUBLIC NOTICING – Agenda posting.

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HA-SN/7/CAM
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Attachment: 1. Resolution