



**Contra
Costa
County**

To: Board of Supervisors

From: Julia R. Bueren, Public Works Director/Chief Engineer

Date: September 27, 2016

Subject: HEARING to consider adoption of Ordinance No. 2016-12 and Resolution No. 2016/543

RECOMMENDATION(S):

1. OPEN the public hearing to consider adopting Ordinance No. 2016-12, to adjust Bethel Island Area of Benefit ("Bethel Island AOB") fees; RECEIVE public comments; CONSIDER all objections and protests received by the Clerk of the Board of Supervisors; and CLOSE the public hearing.
 2. DETERMINE that the County did not receive protests from owners of more than one half of the area of the property within the proposed boundaries of the Bethel Island AOB, and therefore a majority protest does not exist.
 3. ADOPT Ordinance No. 2016-12 to adjust the fees within the Bethel Island AOB, and to reestablish the boundaries of the Bethel Island AOB.
 4. ADOPT Resolution No. 2016/543 to adopt the Development Program Report and Nexus Study attached thereto.
 5. DETERMINE that the adoption of Ordinance No. 2016-12 and Resolution No. 2016/543 are exempt from environmental review under the California Environmental Quality Act
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☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD COMMITTEE

Action of Board On: **09/27/2016** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Candace Andersen, District II Supervisor
Mary N. Piepho, District III Supervisor
Karen Mitchoff, District IV Supervisor
Federal D. Glover, District V Supervisor

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: September 27, 2016

David Twa, County Administrator and Clerk of the Board of Supervisors

By: June McHuen, Deputy

Contact: Mary Halle, (925)
313-2327

(CEQA), pursuant to Article 5, Section 15061(b)(3) of the CEQA Guidelines.

6. DIRECT the Conservation and Development Director

RECOMMENDATION(S): (CONT'D)

to file a Notice of Exemption with the County Clerk-Recorder; and DIRECT the Public Works Director to arrange for payment of the \$25.00 handling fee to the County Clerk-Recorder for the filing of the Notice of Exemption.

7. DIRECT the Clerk of the Board of Supervisors to record certified copies of Ordinance No. 2016-12 and Resolution No. 2016/543 in the Official Record of the Contra Costa County Clerk-Recorder.

8. DIRECT that, on January 1, 2017, and on each January 1 thereafter that the Ordinance No. 2016-12 remains in effect, the Public Works Director adjust the Bethel Island AOB transportation mitigation fees for the effects of inflation or deflation, in accordance with Section 5(a)(3) of the ordinance.

9. REDESIGNATE Trust Fund No. 1290 as the fund into which all Bethel Island AOB transportation mitigation fee revenue will be deposited, DIRECT all Bethel Island AOB transportation mitigation fee revenue must be deposited into that fund, and DIRECT the County Treasurer-Tax Collector to invest all monies in that fund, with interest to accrue and remain in the fund.

10. DIRECT that all funds previously deposited in Trust Fund No. 1290 must be used solely to pay new development's proportional share of the actual or estimated costs of constructing the transportation improvements specified in the Development Program Report and Nexus Study attached hereto, and to reimburse the County for payment of any such costs with money advanced by the County from its general fund, or from other County revenues.

11. AUTHORIZE the Public Works Department to collect an additional administrative fee equal to two percent (2%) of the applicable Bethel Island AOB Fee.

12. DIRECT the Conservation and Development Director to monitor future amendments to the currently adopted General Plan and their impact on traffic within the Bethel Island AOB, and to report those amendments to the Public Works Director as necessary to facilitate updating of the Bethel Island AOB Fee.

FISCAL IMPACT:

Adoption of Ordinance No. 2016-12 will result in the collection of transportation mitigation fees from new development in amounts calculated to reflect new development's proportional share of the actual or estimated costs of transportation improvements that are necessary to mitigate transportation impacts within the Bethel Island AOB, as specified in the Development Program Report and the Nexus Study.

BACKGROUND:

A. INTRODUCTION: One of the objectives of the County General Plan is to connect new development directly to the provision of community facilities necessary to serve that development. In other words, development cannot be allowed to occur unless a mechanism is in place to provide the funding for the infrastructure necessary to serve that development. Imposing transportation mitigation fees on new development is a means of raising revenue to construct road improvements to serve new developments. Requiring that all new development pay a transportation mitigation fee ensures that new development pays its proportional share of the transportation improvements that need to be constructed to alleviate traffic impacts attributable to that development.

B. PAST AND PURPOSE OF BETHEL ISLAND AOB: On March 15, 1988, the Board of Supervisors (“Board”) passed Resolution 88/122, forming the Countywide Area of Benefit (“Countywide AOB”), a development fee program to raise revenue for the improvement of the capacity and safety of the arterial road network in the County through the establishment of a traffic mitigation fee ordinance, pursuant to Government Code section 66484. The boundaries of the Countywide AOB coincided with the County boundary, but only unincorporated areas were included in the Countywide AOB. The Board also adopted a Development Program Report (“1988 DPR”), which showed the Countywide AOB to be divided into seven regions – West County, Central County, Lamorinda, Alamo, South County, East County and Bethel Island. The 1988 DPR set forth a list of improvements in each region, their estimated costs, the basis for apportionment of these costs among different land use categories, and fees applicable to development in each region. Ordinance No. 88-27, adopted the same date, established the fees applicable to all development in the seven regions. The 1988 DPR provided that fees collected in a subarea were to be kept in a separate trust fund specific to that subarea, to “ensure that the money collected in a subarea is used to improve the road deficiencies in that subarea only and will not be diverted for use elsewhere in the County.”

On March 9, 1993, the Board adopted a revised development program report (“1993 DPR”) for the Countywide AOB, which outlined the boundaries of seven areas of benefit within the original Countywide AOB and described them as coinciding with the boundaries of the seven regions created in 1988. Among the new areas of benefit was the Bethel Island AOB. The 1993 DPR identified the same four projects for the Bethel Island AOB that were identified in the 1988 DPR. The four projects were estimated at that time to cost \$9,200,000, unchanged from the cost estimate provided in 1988. The 1993 DPR also provided that the funding mechanism and trust fund accounts specific to a particular region would remain in place but be “specific to a particular Regional Area of Benefit.” Simultaneously with the adoption of the 1993 DPR, the Board adopted Ordinance No. 93-27, formally establishing the Bethel Island AOB and adopting fees to fund the four projects identified in the 1993 DPR for that area.

Fees imposed on new development pursuant to Ordinance No. 93-27 have funded transportation improvements to satisfy traffic demands within the Bethel Island AOB.

For example, the Bethel Island Road Bridge over Dutch Slough (one of the key Area of Benefit improvement projects), has been replaced with a new, widened structure. However, other AOB improvements identified in the 1993 DPR have not been constructed. The proposed road widening on Bethel Island Road from Wells Road to Sandmound Road is yet to be completed. This project will “carry-over” from the current project list to the new project list with the current fund balance allocated towards this project.

C. PROPOSED CHANGES TO FEE PROGRAM: In recent years, the development potential and traffic circulation needs have changed within the Bethel Island AOB. In 2006, the City of Oakley annexed portions of the AOB south of Dutch Slough. New development within the Bethel Island AOB will generate nearly 900 residential units, 107,000 square feet of office space, 32,000 square feet of industrial, and 97,000 of retail by year 2040. These changes in the AOB, along with population growth and new estimated potential growth, have prompted an update to the AOB program, resulting in an amended project list and fee schedule, and some administrative modifications, as discussed below.

1. **New Project List:** County staff and consultants have identified transportation projects that are needed to serve development within the Bethel Island AOB through 2040. These projects have been included on a new project list, attached as Exhibit C to the August 2016 Development Program Report (“2016 Development Program Report”). Each of the new projects includes adding shoulders or pavement widening to certain existing road segments, to improve road safety and bicycle and pedestrian transit on those road segments. These road segments include portions of Bethel Island Road, Sandmound Boulevard, Gateway Road, and Piper Road.

The total estimated cost of the updated list of projects is \$6,928,000, of which \$2,339,000 is attributable to new development within the Bethel Island AOB. The current Bethel Island AOB fund balance will be applied to the portion of the estimated costs attributable to new development, resulting in a net \$1,862,000 needing to be paid by new development. (Detailed estimates of the cost of each of the projects on the project list are included in the August 2016 Nexus Study, Bethel Island Area of Benefit (the “Nexus Study”), attached as Exhibit D to the 2016 Development Program Report.) The cost of the projects attributable to new development will be paid with revenue from transportation mitigation fees imposed on new development within the Bethel Island AOB. The remaining cost of the project is attributable to existing development, which shall be paid from other revenue sources, including but not limited to State or Federal Highway Safety Improvement grant funds, Local Measure J funds, gas tax revenue, and various other grant programs that may become available in the future.

2. **Revised Fee Rates:** Based on the analysis in the Nexus Study, transportation mitigation fees were calculated to charge new development for its proportional share of the cost of the projects on the project list in the 2016 Development Program Report. These transportation mitigation fees are set forth in Table 1, below. These fees will be imposed

on new development within the Bethel Island AOB on and after the effective date of Ordinance No. 2016-12. On January 1, 2017, and on each January 1st thereafter, each of the fees in Table 1 will automatically increase or decrease based on the percentage change in the Engineering News-Record Construction Cost Index, San Francisco Bay Area, for the 12 month period ending September 30th of the year prior to the year in which the adjustment will take effect.

Table 1: Proposed Fee Rates

Land Use Category	Proposed Fee Rate
Single-Family	\$1,617 / du
Multi-Family	\$986 / du
Commercial	\$2.30 / sf
Office	\$1.86 / sf
Industrial	\$1.47 / sf
Other	\$1,617 / due

Note: du = dwelling unit; sf = square foot; due = dwelling unit equivalent

The total fees required to be paid by a new development project applicant will be calculated based on the number of dwelling units (residential), square feet (commercial, office, industrial), or dwelling-unit-equivalents (other) attributable to that development, as specified in the Nexus Study, multiplied by the applicable fee in Table 1. The fee for the expansion of an existing development will be calculated by determining the number of dwelling units, square feet, or dwelling-unit-equivalents attributable only to the expansion.

The fees to be paid by each new development will be collected at the time a building permit is issued for the development, in accordance with Ordinance Code Chapter 913-4. Fee revenue will be deposited in the fund for the Bethel Island AOB – Trust Fund No. 1290 – and used only for the transportation improvements identified in the 2016 Development Program Report.

CONSEQUENCE OF NEGATIVE ACTION:

Failure to adopt Ordinance No. 2016-12 to adjust fees in the Bethel Island Area of Benefit and reestablish the boundaries of the area of benefit will result in new development not paying its proportional share of the transportation improvements needed to serve development within the AOB through 2040.

CLERK'S ADDENDUM

CLOSED the hearing; DETERMINED no majority protest exists;

ADOPTED Ordinance No. 2016-12 to adjust the fees within the Bethel Island AOB, and to reestablish the boundaries of the Bethel Island AOB.; ADOPTED Resolution No. 2016/543 to adopt the Development Program Report and Nexus Study attached thereto; DETERMINED that the adoption of Ordinance No. 2016-12 and Resolution No. 2016/543 are exempt from environmental review under the California Environmental Quality Act (CEQA);

DIRECTED the Conservation and Development Director to file a Notice of Exemption with the County Clerk-Recorder; and DIRECT the Public Works Director to arrange for payment of the \$25.00 handling fee to the County Clerk-Recorder for the filing of the Notice of Exemption; DIRECTED the Clerk of the Board of Supervisors to record certified copies of Ordinance No. 2016-12 and Resolution No. 2016/543 in the Official Record of the Contra Costa County Clerk-Recorder. DIRECT that, on January 1, 2017, and on each January 1 thereafter that the Ordinance No. 2016-12 remains in effect, the Public Works Director adjust the Bethel Island AOB transportation mitigation fees for the effects of inflation or deflation, in accordance with Section 5(a)(3) of the ordinance; REDESIGNATED Trust Fund No. 1290 as the fund into which all Bethel Island AOB transportation mitigation fee revenue will be deposited, DIRECTED all Bethel Island AOB transportation mitigation fee revenue must be deposited into that fund, and DIRECTED the County Treasurer-Tax Collector to invest all monies in that fund, with interest to accrue and remain in the fund;

DIRECTED that all funds previously deposited in Trust Fund No. 1290 must be used solely to pay new development's proportional share of the actual or estimated costs of constructing the transportation improvements specified in the Development Program Report and Nexus Study attached hereto, and to reimburse the County for payment of any such costs with money advanced by the County from its general fund, or from other County revenues.

AUTHORIZED the Public Works Department to collect an additional administrative fee equal to two percent (2%) of the applicable Bethel Island AOB Fee; DIRECTED the Conservation and Development Director to monitor future amendments to the currently adopted General Plan and their impact on traffic within the Bethel Island AOB, and to report those amendments to the Public Works Director as necessary to facilitate updating of the Bethel Island AOB Fee.

ATTACHMENTS

Resolution No. 2016/543

DPR - Bethel Island AOB

Nexus Study for Bethel Island AOB Aug 2016

Ordinance 2016-12

CEQA - Notice of Exemption

Board Resolution Final Reso No. 2016/543