



**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. 2016-18 and Resolution No. 2016/545

RECOMMENDATION(S):

OPEN the public hearing to consider adopting Ordinance No. 2016-18, to adjust Bay Point Area of Benefit ("Bay Point AOB") fees; RECEIVE public comments; CONSIDER all objections and protests received by the Clerk of the Board of Supervisors; and CLOSE the public hearing.

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 Bay Point AOB, and therefore a majority protest does not exist.

ADOPT Ordinance No. 2016-18 to adjust the fees within the Bay Point AOB, and to reestablish the boundaries of the Bay Point AOB.

ADOPT Resolution No. 2016/545, to adopt the Development Program Report and Nexus Study attached thereto.

DETERMINE that the adoption of Ordinance No. 2016-18 and Resolution No. 2016/545 are exempt from environmental review under the California Environmental Quality Act

☒ 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.

DIRECT the Conservation and Development Director to file a Notice of Exemption with the County Clerk-Recorder; and DIRECT the Public Works Director to arrange

RECOMMENDATION(S): (CONT'D)

for payment of the \$25.00 handling fee to the County Clerk-Recorder for the filing of the Notice of Exemption.

DIRECT the Clerk of the Board of Supervisors to record certified copies of Ordinance No. 2016-18 and Resolution No. 2016/545 in the Official Records of the Contra Costa County Clerk-Recorder.

DIRECT that, on January 1, 2017, and on each January 1 thereafter that the Ordinance No. 2016-18 remains in effect, the Public Works Director will adjust the Bay Point AOB transportation mitigation fees for the effects of inflation or deflation, in accordance with Section 5(a)(3) of the ordinance.

REDESIGNATE Trust Fund No. 1395 as the fund into which all Bay Point AOB transportation mitigation fee revenue will be deposited, DIRECT all Bay Point AOB transportation mitigation fee revenue to 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.

DIRECT that all funds previously deposited in Trust Fund No. 1395 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.

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

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

FISCAL IMPACT:

Adoption of Ordinance No. 2016-18 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 Bay Point 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 BAY POINT AOB: On September 24, 1985, the Board of Supervisors passed a resolution forming the West Pittsburg Area of Benefit, now known as the Bay Point Area of Benefit. At the time, there were many vacant parcels in the area with potential for residential development, and the existing transportation system was inadequate to handle the additional traffic generated from the projected development. In 1991, 1996 and again in 1998, the Area of Benefit program was revised to reflect the changing needs of the area. Over the past 28 years, Area of Benefit fees have helped pay for improvements to Willow Pass Road, Bailey Road, Port Chicago Highway, Pacifica Avenue and Driftwood Drive.

C. PROPOSED CHANGES TO FEE PROGRAM: The Bay Point area has, in recent years, experienced changes in the area's circulation needs and development potential. Most of the residential development potential has been fulfilled, and many of the original Area of Benefit projects have been constructed. The remaining development potential within the Bay Point AOB is estimated to generate nearly 1,500 residential units, 310,000 square feet of office space, 317,000 square feet of industrial space, and 237,000 of retail space by year 2040. These changes have prompted another revision to the Area of Benefit program, resulting in a new project list and fee schedule.

1. New Project List: County staff and consultants have identified transportation projects that are needed to serve development within the Bay Point AOB through 2040. These projects have been included on the updated project list, attached as Exhibit C to the August 2016 Development Program Report ("2016 Development Program Report"). These projects include arterial roadway improvements, intersection improvements, and signalization projects, as well as pedestrian and bicycle infrastructure projects. The roads that will be improved within the Area of Benefit include but are not limited to Willow Pass Road, Port Chicago Highway, and Bailey Road.

The total estimated cost of the updated list of projects is \$40,534,000, of which \$16,820,812 is attributable to new development within the Bay Point AOB. The current Bay Point AOB fund balance will be applied to the portion of the estimated costs attributable to new development, resulting in a net \$15,874,501 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, Bay Point Area of Benefit (the "Nexus

Study”), attached as Exhibit D to the 2016 Development Program Report. The portion of the project costs that are not funded through the AOB program will be funded through 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. One project from the 1998 project list, Port Chicago Highway west of McAvoy Road to Pacifica Avenue, has not been completed, and will carry over to the proposed project list. This carry over project is identified on the proposed list as Project 3.2. The existing balance in the account of approximately \$950,000 will be ear marked to fund this project.

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 Bay Point AOB on and after the effective date of Ordinance No. 2016-18. 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	\$7,870 / du
Multi-Family	\$4,801 / du
Commercial	\$4.62 / sf
Office	\$3.74 / sf
Industrial	\$2.96 / sf
Other	\$7,870/ due

Note: du = dwelling unit; sf = square foot

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 Bay Point AOB – Trust Fund No. 1395 – and used only for the transportation improvements identified in the 2016 Development Program Report.

The potential maximum fee rates for non-residential land uses, as calculated in the Nexus Study, represent an increase of roughly 180% for commercial land use, 175% for industrial, and about 130% for office use. In order to keep Bay Point competitive for job growth, a fee reduction of approximately 40% is proposed for employment generating land uses. The reduced non-residential fees are comparable to those imposed by other local agencies in the vicinity of Bay Point.

D. RESOLUTION NO. 2016/545: Pursuant to Government Code section 66484 subdivision (a)(3), a resolution must be adopted by the Board that incorporates a description of the boundaries of the area of benefit, the costs, whether actual or estimated, and the method of fee apportionment established at the hearing.

The 2016 Development Program Report attached to the resolution sets forth the boundaries of the Bay Point AOB, the list of projects and their estimated costs, the method of fee apportionment, and the nexus findings. Approval of Resolution No. 2016/545 is recommended because it serves to comply with the above legal requirements by adopting and incorporating the facts and findings contained in the 2016 Development Program Report, and the Nexus Study attached to the report.

E. ORDINANCE NO. 2016-18:

To adjust the Bay Point AOB fees, an ordinance must be approved by the Board of Supervisors to include the “nexus” findings required by Government Code section 66001. The ordinance also must include the specific information required by Government Code section 66484. Ordinance No. 2016-18 includes the information and findings required by those statutes.

Adoption of Ordinance No. 2016-18 will repeal Ordinance No. 98-40, and impose new transportation mitigation fees on new development within the Bay Point AOB. The ordinance includes provisions for fee reductions for affordable and inclusionary housing, senior housing, and congregate care facilities. Revenue from the fees will fund the transportation projects necessary to serve transportation demands within the Bay Point AOB through 2040. Staff recommends that the Board adopt Ordinance No. 2016-18.

F. ADMINISTRATIVE FEE: In addition to the transportation mitigation fee imposed on a new development project, the County will assess an administrative fee equal to 2% of that transportation mitigation fee. This additional fee will be used to cover staff time for fee collection, accounting, technical support to the community groups, traffic advisory committees and other administrative tasks.

G. CEQA FINDINGS: These actions are covered by the general rule that the California

Environmental Quality Act (CEQA) applies only to projects that have the potential to cause a significant effect on the environment. It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. The implementation and imposition of fees has no associated environmental impacts. Therefore, this activity is exempt from the requirements of CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines. The future implementation of the transportation improvement projects to be funded with transportation mitigation fee revenue, however, may have associated project-specific impacts, and such impacts will be evaluated under CEQA as each project is planned and implemented.

Notice of this hearing was given in accordance with Government Code sections 6061, 65091, 54986, 66484, and Ordinance Code Section 913-6.014. For the reasons specified above, Public Works Department staff recommends that the Board take each of the recommended actions listed in this board order, to adjust the transportation mitigation fees that are imposed on new development within the Bay Point AOB.

CONSEQUENCE OF NEGATIVE ACTION:

Failure to adopt Ordinance No. 2016-18 to adjust fees in the Bay Point Area of Benefit, reestablish the boundaries, and update the proposed project list 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 public hearing; DETERMINED no majority protest exists; ADOPTED Ordinance No. 2016-18 to adjust the fees within the Bay Point AOB, and to reestablish the boundaries of the Bay Point AOB; ADOPTED Resolution No. 2016/545, to adopt the Development Program Report and Nexus Study attached thereto; DETERMINED that the adoption of Ordinance No. 2016-18 and Resolution No. 2016/545 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 DIRECTED 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. 2016-18 and Resolution No. 2016/545 in the Official Records of the Contra Costa County Clerk-Recorder. DIRECTED that, on January 1, 2017, and on each January 1 thereafter that the Ordinance No. 2016-18 remains in effect, the Public Works Director will adjust the Bay Point 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. 1395 as the fund into which all Bay Point AOB transportation mitigation fee revenue will be deposited, DIRECTED all Bay Point AOB transportation mitigation fee revenue to 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. 1395 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 Bay Point 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 Bay Point AOB and to report those amendments to the Public Works Director as necessary to facilitate

updating of the Bay Point AOB Fee.

ATTACHMENTS

Resolution No. 2016/545

DPR -Bay Point AOB

Nexus Study for Bay Point AOB August 2016

Board Resolution Final Reso. No. 2016/545

CEQA- Notice of Exemption

Ordinance 2016-18