



Contra
Costa
County

To: Board of Supervisors
From: Julia R. Bueren, Public Works Director/Chief Engineer
Date: December 20, 2016

Subject: HEARING to consider adoption of Ordinance No. 2016-25 and Resolution No. 2016/672 (District II)

RECOMMENDATION(S):

1. OPEN the public hearing to consider adopting Ordinance No. 2016-25, to adopt the Alamo Area of Benefit ("Alamo 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 Alamo AOB, and therefore, a majority protest does not exist.
3. ADOPT Ordinance No. 2016-25 to adopt fees within the Alamo AOB, and to reestablish the boundaries of the Alamo AOB.
4. ADOPT Resolution No. 2016/672, to adopt the Development Program Report and Nexus Study attached thereto.
5. DETERMINE that the adoption of Ordinance No. 2016-25 and Resolution No. 2016/672 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: **12/20/2016** ☒ 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

ABSENT: 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: December 20, 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 to file a Notice of Exemption with the County Clerk-Recorder; and DIRECT the Public Works Director to arrange for payment of the \$25 handling fee to the County Clerk-Recorder for the filing of the Notice of Exemption.

RECOMMENDATION(S): (CONT'D)

7. DIRECT the Clerk of the Board of Supervisors to record certified copies of Ordinance No. 2016-25 and Resolution No. 2016/672 in the Official Records of the Contra Costa County Clerk-Recorder.

8. DIRECT that, on January 1, 2018, and on each January 1 thereafter, that the Ordinance No. 2016-25 remains in effect, the Public Works Director adjust the Alamo 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. 1260 as the fund into which all Alamo AOB transportation mitigation fee revenue will be deposited, DIRECT all Alamo AOB transportation mitigation fee revenue will 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. 1260, if any, 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 Alamo 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 Alamo AOB and to report those amendments to the Public Works Director as necessary to facilitate updating of the Alamo AOB Fee.

FISCAL IMPACT:

100% Alamo Area of Benefits

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 ALAMO 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, South County, East County, Bay Point, and Alamo. 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. In 1998, an amendment was established to include the Alamo Area of Benefit. The 1998 DPR identified the same seven projects for the Alamo AOB that were identified in the 1988 DPR. The seven projects were estimated at that time to cost \$2,863,000. The 1998 DPR also identified the funding mechanism and trust fund accounts specific to the Area of Benefit. Simultaneously with the adoption of the 1998 DPR, the Board adopted Ordinance No. 98-21, formally establishing the Alamo AOB and adopting fees to fund the seven projects identified in the 1998 DPR for that area.

Fees imposed on new development pursuant to Ordinance No. 98-21 have funded transportation improvements to satisfy traffic demands within the Alamo AOB. For example, the fees have provided the revenue to partially fund improvements to Stone Valley Road, Miranda Avenue, Livorna Road, and Danville Boulevard.

C. PROPOSED CHANGES TO FEE PROGRAM: In recent years, the development potential and traffic circulation needs have changed within the Alamo AOB. 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 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 Alamo AOB through 2040. These projects have been included on a new project list, attached as Exhibit C to the October 2016 Development Program Report (“2016 Development Program Report”). Each of the new projects include bicycle and pedestrian safety improvements on certain road segments. These road segments include portions of Stone Valley Road, Danville Boulevard, Livorna Road, and Hemme Avenue.

The total estimated cost of the updated list of projects is \$6,437,000, of which \$2,872,000 is the cost share attributed to new development within the Alamo AOB. Detailed estimates of the cost of each of the projects on the project list are included in the October 2016 Nexus Study, Alamo 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 Alamo 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 fee rates are set forth in Table 1, below along with the recommended rates to be imposed on new development within the Alamo AOB on and after the effective date of Ordinance No. 2016-25. As the Alamo fee rates are currently among the highest in the area, it is recommended that the new fees not exceed the current fee rates to allow economic growth to continue. On January 1, 2018, and on each January 1st thereafter, each of the fees adopted in Ordinance No. 2016-25 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	Calculated Nexus Fee Rate	Recommended Fee Rate
Single-Family	\$20,964 / du	\$12,102 / du
Multi-Family	\$12,788 / du	\$10,080 / du
Commercial	\$29.77 / sf	\$11.18 / sf
Office	\$24.11 / sf	\$11.18 / sf
Industrial	\$19.08 / sf	\$11.18 / sf
Other	\$20,964 / due	\$12,102 / 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 multiplied by the applicable recommended fee rate 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 Alamo AOB – Trust Fund No. 1260 – and used only for the transportation improvements identified in the 2016 Development Program Report.

D. RESOLUTION NO. 2016/672: 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 sets forth the boundaries of the Alamo AOB, the list of projects and their estimated costs, the method of fee apportionment, and nexus findings. Approval of Resolution No. 2016/672, 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. 2016-25:

To adopt the Alamo AOB fees to generate revenue to fund the transportation improvements described herein, the Board of Supervisors needs to adopt an ordinance that includes 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. 2016-25 includes the information and findings required by those statutes.

Adoption of Ordinance No. 2016-25 will repeal Ordinance No. 98-21, and impose new transportation mitigation fees on new development within the Alamo 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 Alamo AOB through 2040. Staff recommends that the Board adopt Ordinance No. 2016-25.

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 two percent (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 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 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 adopt the transportation mitigation fees that are imposed on new development within the Alamo AOB.

CONSEQUENCE OF NEGATIVE ACTION:

If Ordinance No. 2016-25 is not adopted, Ordinance No. 98-21 would remain effective, but fees collected under it could not be used to pay the costs to construct the new transportation improvements the Public Works Department has determined are needed to satisfy traffic demands from development within the Alamo AOB through 2040.

CLERK'S ADDENDUM

Speakers: Star Ghanaat, resident of Concord.

CLOSED the public hearing; DETERMINED a majority protest does not exist; ADOPTED Ordinance No. 2016-25 to adopt fees within the Alamo AOB, and to reestablish the boundaries of the Alamo AOB; ADOPTED Resolution No. 2016/672, to adopt the Development Program Report and Nexus Study attached thereto; DETERMINED that the adoption of Ordinance No. 2016-25 and Resolution No. 2016/672 are exempt from environmental review under the California Environmental Quality Act (CEQA), pursuant to Article 5, Section 15061(b)(3) of the CEQA Guidelines; . 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 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. 2016-25 and Resolution No. 2016/672 in the Official Records of the Contra Costa County Clerk-Recorder; DIRECTED that, on January 1, 2018, and on each January 1 thereafter, that the Ordinance No. 2016-25 remains in effect, the Public Works Director adjust the Alamo 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. 1260 as the fund into which all Alamo AOB transportation mitigation fee revenue will be deposited, DIRECTED all Alamo AOB transportation mitigation fee revenue will 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. 1260, if any, 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 Alamo 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 Alamo AOB and to report those amendments to the Public Works Director as necessary to facilitate updating of the Alamo AOB Fee.

ATTACHMENTS

Resolution No. 2016/672

Nexus Study For Alamo AOB

CEQA

Ordinance No. 2016-25

DPR - Area of Benefit - Alamo