



**Contra
Costa
County**

To: Board of Supervisors
From: Brian M. Balbas, Public Works Director/Chief Engineer
Date: May 22, 2018

Subject: Ord. No. 2018-16 & Reso. No. 2018/182 to adjust Transp. Mit. fees, update project list & reestablish boundaries for Discovery Bay AOB.

RECOMMENDATION(S):

1.) OPEN the public hearing to consider adopting Ordinance No. 2018-16, to update the Discovery Bay Area of Benefit ("Discovery Bay AOB"); 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 Discovery Bay AOB, and therefore a majority protest does not exist.

3.) ADOPT Ordinance No. 2018-16 to update the project list and adjust the transportation mitigation fees within the Discovery Bay AOB, and to reestablish the boundaries of the Discovery Bay AOB.

4.) ADOPT Resolution No. 2018/182, to adopt the Development Program Report and Nexus Study attached thereto.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD COMMITTEE

Action of Board On: **05/22/2018** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Candace Andersen, District II Supervisor
Diane Burgis, 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: May 22, 2018

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

By: June McHuen, Deputy

Contact: Mary Halle,
925.313.2327

cc:

RECOMMENDATION(S): (CONT'D)

5.) DETERMINE that the adoption of Ordinance No. 2018-16 and Resolution No. 2018/182 and take related actions under the California Environmental Quality Act (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 AUTHORIZE the Public Works Director, or designee, to arrange for payment of a \$25 fee to the Department of Conservation and Development for processing, and a \$50 fee to the County Clerk for filing of the Notice of Exemption.

7.) DIRECT the Clerk of the Board of Supervisors to record certified copies of Ordinance No. 2018-16 and Resolution No. 2018/182 in the Official Records of the Contra Costa County Clerk-Recorder.

8.) DIRECT that, on January 1, 2019, and on each January 1 thereafter that the Ordinance No. 2018-16 remains in effect, the Public Works Director adjust the Discovery Bay 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. 1390 as the fund into which all Discovery Bay AOB transportation mitigation fee revenue will be deposited, DIRECT all Discovery Bay 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.

10.) DIRECT that all funds deposited in Trust Fund No. 1390 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. Further DIRECT that all funds previously deposited in Trust Fund No. 1390 be used solely to pay new development's proportional share of the actual or estimated costs of constructing the Byron Highway Improvements at Byron Elementary School (currently named Excelsior Middle School) project.

11.) AUTHORIZE the Public Works Department to collect an additional administrative fee equal to two percent (2%) of the applicable Discovery Bay 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 Discovery Bay AOB and to report those amendments to the Public Works Director as necessary to facilitate updating of the Discovery Bay AOB Fee.

FISCAL IMPACT:

100% Discovery Bay Area of Benefit Funds.

Adoption of Ordinance No. 2018-16 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 Discovery Bay 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. HISTORY AND PURPOSE OF DISCOVERY BAY AOB: On September 18, 1979, the Board adopted Resolution No. 79/946, to establish the State Route 4 Area of Benefit – a development fee program to raise revenue for transportation improvements within the area that now includes Discovery Bay, pursuant to Government Code section 66484. In 1987, the Board adopted Ordinance No. 87-96 to (1) adjust the boundaries of the area of benefit, (2) rename the area of benefit the “Discovery Bay Area of Benefit” (“Discovery Bay AOB”), and (3) adjust transportation mitigation fees imposed on new development within the area of benefit. In 1992, the Board of Supervisors adopted Ordinance No. 92-80, to adjust transportation mitigation fees imposed on new development within the Discovery Bay AOB. Most recently, on July 22, 1997, the Board adopted Ordinance No. 97-27, to reestablish the Discovery Bay AOB, and to adjust transportation mitigation fees imposed on new development within the area of benefit. Transportation mitigation fees imposed on new development in the Discovery Bay AOB have not been adjusted by this Board since Ordinance No. 97-27 was adopted.

C. PROPOSED CHANGES TO FEE PROGRAM: In recent years, the development potential and traffic circulation needs have changed within the Discovery Bay AOB. These changes, along with population growth and new estimated potential growth, have prompted an update to the Discovery Bay 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 Discovery Bay AOB through 2040. These projects have been included on a new project list, attached as Exhibit C to the April 2018 Development Program Report (“2018 Development Program Report”). The new project list includes one carry-over project from the

previous project list, which is to improve Byron Highway in the vicinity of Byron Elementary school.

The total estimated cost of the updated list of projects is \$32,555,000, of which \$6,390,565 is attributable to new development within the Discovery Bay AOB.

Detailed estimates of the cost of each of the projects on the project list are included in the April 2018 Nexus Study, Discovery Bay Area of Benefit (the “Nexus Study”), attached as Exhibit D to the 2018 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 Discovery Bay AOB. The remaining cost of the projects, attributable to existing development, will 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 2018 Development Program Report. The maximum transportation mitigation fee rates supported by the Nexus Study are set forth in Table 1, below, along with the recommended rates to be adopted by Ordinance 2018-16. It was determined that the program update will implement fee increases that brings the AOB fees in Discovery Bay up to those imposed in surrounding jurisdictions, even though the Nexus Study justifies higher fees. The proposed fee rates are less than the maximum allowable rates supported by the Nexus Study. However, the recommended fee rates are intended to be at levels that will allow economic growth to continue. On January 1, 2019, and on each January 1st thereafter, each of the fees in Table 1 will automatically increase or decrease by a percentage equal to the percentage change, if any, in the Engineering News-Record Construction Cost Index for the San Francisco Bay Area for the 12-month period ending September 30 of the prior year.

Table 1: Discovery Bay AOB Fee Rates

Land Use Category	Maximum Fees Supported by Nexus Study	Fees to be Adopted
Single-Family	\$42,831 / du	\$9,244 / du
Multi-Family	\$26,292 / du	\$5,675 / du
Commercial/Retail	\$60.78 / sf	\$9.11 / sf
Office	\$49.16 / sf	\$7.37 / sf
Industrial	\$39.00/ sf	\$5.85 / sf
Other	\$42,831 / due	\$9,244 / 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 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 Discovery Bay AOB – Trust Fund No. 1390 – and used only for the transportation improvements identified in the 2018 Development Program Report.

3. Use of Existing Fee Revenues: There is currently an approximate balance of \$240,760 in the account for the Discovery Bay AOB. Those funds were collected to fund projects on the previous project list. There are limitations on how development impact fee revenues may be spent. By law, the existing revenue balance cannot be spent on any of the new projects on the new project list. Because of these restrictions, the existing fund balance of \$240,760 will be allocated to the Byron Highway Improvements at Byron Elementary School (currently named Excelsior Middle School) project, which is a carry-over project from the previous project list.

4. The Discovery Bay Community Service District has requested that updates to the AOB program implemented after 2018 consider merging the area referred to as Discovery Bay West into the Discovery Bay AOB boundary. No actions by the Board are currently required. This policy decision may be revisited by the Board at a later update to the Discovery Bay AOB program.

D. RESOLUTION NO. 2018/182: Pursuant to Government Code sections 66484 subdivision (a)(3), and 66484.7, 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 2018 Development Program Report sets forth the boundaries of the Discovery Bay AOB, the list of projects and their estimated costs, the method of fee apportionment, and nexus findings. Approval of Resolution No. 2018/182 is required to comply with the above legal requirements by adopting and incorporating the facts and findings contained in the 2018 Development Program Report, and the Nexus Study attached to the report.

E. ORDINANCE NO. 2018-16:

To adjust the Discovery Bay 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

sections 66484 and 66484.7. Ordinance No. 2018-16 includes the information and findings required by those statutes.

Adoption of Ordinance No. 2018-16 will repeal Ordinance No. 97-27 and impose new transportation mitigation fees on new development within the Discovery Bay 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 Discovery Bay AOB through 2040. Staff recommends that the Board adopt Ordinance No. 2018-16.

Notice of this hearing was given in accordance with Government Code sections 6061, 65091, 54986, 66484, and Ordinance Code Section 913-6.014.

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 activities 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.

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 Discovery Bay AOB

CONSEQUENCE OF NEGATIVE ACTION:

Failure to adopt Ordinance No. 2018-16 to adjust fees in the Discovery Bay 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, and projects needed to satisfy transportation demands within the AOB could not be funded under the existing AOB program.

CLERK'S ADDENDUM

CLOSED the public hearing;

DETERMINED no majority protest exists;

ADOPTED Ordinance No. 2018-16 to update the project list and adjust the transportation mitigation fees within the Discovery Bay AOB, and to reestablish the boundaries of the Discovery Bay AOB; ADOPTED Resolution No. 2018/182, to adopt the Development Program Report and Nexus Study; DETERMINED that the adoption of Ordinance No. 2018-16 and Resolution No. 2018/182 and take related actions 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 AUTHORIZED the Public Works Director, or designee, to arrange for payment of a \$25 fee to the Department of Conservation and Development for processing, and a \$50 fee to the County Clerk for filing of the Notice of Exemption. DIRECTED the Clerk of the Board of Supervisors to record certified copies of Ordinance No. 2018-16 and Resolution No. 2018/182 in the Official Records of the Contra Costa County Clerk-Recorder; DIRECTED that, on January 1, 2019, and on each January 1 thereafter that the Ordinance No. 2018-16 remains in effect, the Public Works Director adjust the Discovery Bay 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. 1390 as the fund into which all Discovery Bay AOB transportation mitigation fee revenue will be deposited, DIRECTED all Discovery Bay 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; DIRECTED that all funds deposited in Trust Fund No. 1390 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. Further DIRECTED that all funds previously deposited in Trust Fund No. 1390 be used solely to pay new development's proportional share of the actual or estimated costs of constructing the Byron Highway Improvements at Byron Elementary School (currently named Excelsior Middle School) project; AUTHORIZED the Public Works Department to collect an additional administrative fee equal to two percent (2%) of the applicable Discovery Bay AOB Fee; and DIRECTED the Conservation and Development Director to monitor future amendments to the currently adopted General Plan and their impact on traffic within the Discovery Bay AOB and to report those amendments to the Public Works Director as necessary to facilitate updating of the Discovery Bay AOB Fee.

ATTACHMENTS

Resolution No. 2018/182

Nexus Study

CEQA

Final Ordinance 2018-16

DPR Discovery Bay AOB