

Lompoc City Council Agenda Item

City Council Meeting Date: January 3, 2012

TO: Laurel M. Barcelona, City Administrator

FROM: Brad Wilkie, Management Services/Finance Director
E-mail address: b_wilkie@ci.lompoc.ca.us



SUBJECT: Approval of Request for Proposals to prepare a report supporting an update to the City's Development Impact Fees

RECOMMENDATION

1. City Council approve the Request for Proposal (RFP) for a Development Impact Fee Study and authorize distribution of the RFP to the proposed vendors according to the City's Purchasing Ordinance.
2. Authorize the appropriation of funds for the estimated cost of the study at the time of the award of the RFP from the following accounts

10900-53329 – Non-departmental
19000-53329 – Civic Center
23000-53329 – Transit Services
24500-53329 – Capital Development
29802-53329 – Street Development
51500-53329 – Water Utility
52500-53329 – Electric Utility
53500-53329 – Wastewater Utility
54500-53329 – Broadband Utility
59500-53329 – Solid Waste
73500-53329 – Fleet Services

Or;

3. Identify supporting documents that would first need to be updated prior to distribution of the RFP, and
4. Postpone the RFP until such time that development is anticipated to occur and have the study performed in that period.

BACKGROUND

The City Council identified the review of the existing Development Impact Fee structure as one of the objectives to accomplish economic development within the community. Economic development was recently identified as the first priority of the Council. Recent activities such as the establishment of the Economic Development Committee and the selection of committee members

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further establishes economic development as the primary priority of the City Council. Following is a summary of the recent activity related to Development Impact Fees along with the actions and reports that supported the previous study and a discussion of what may be needed to provide for a comprehensive review of the structure of the existing Fees and to provide a recommendation for a revised structure.

The Council adopted the City's first AB1600 Development Impact Fees (Impact Fees) for Fire Equipment in January 1989. In May 1990, Council adopted additional Impacts Fees for the following types of facilities based on a study performed by Ernst & Young:

- Traffic Signals
- Water
- Wastewater
- Police Station
- Refuse Collection Containers

The above Traffic Signal and Refuse Collection Container fees have been updated a few times since their original adoption in May 1990. Additionally, the Council adopted a Quimby Ordinance for Park Improvement Fees and Park Dedications in February 1992. The Quimby Park Fees were enabled by the legislature in 1965 under the Subdivision Map Act for the dedication of fees and/or parkland and have separate requirements for their establishment. The most recent update to the Quimby Park Improvement Fees was approved by the Council in March, 2003 with the passage of Resolution No. 5066(03) with the fees effective on May 18, 2003.

It should be noted that the Park Acquisition and Park Development fees only apply to developments made **without** a subdivision map – usually individual homes or commercial development. Developments under the Subdivision Map Act are subject to the Quimby Fees as outlined in Resolution 5066(03). The Impact Fees, created in 2004 for Park Acquisition and Park Development, are similar to the Quimby Fees for subdivisions and provide equitable allocation of costs to units in a subdivision and units built individually. A developer would pay the Quimby Fees and not the Impact Fees for Park Acquisition and Park Development while an individual homebuilder would pay the Impact Fees for Park Acquisition and Park Development but not Quimby Fees.

In the 2001-2003 budget cycle, the City Council directed staff to update the City's Impact Fees to reflect new development's share of the cost of additional capital assets needed to support the needs of new development. A RFP was issued and the City contracted with the successful proposer, Maximus, Inc., for a comprehensive evaluation of the City's then existing Impact Fees and to prepare a Development Impact Fee Study Report (the Study) for the City. The attached

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Study provides support for the current set of development impact fees. More importantly, the Study also provides support for the nexus between the imposition of the fees and the **estimated reasonable proportional** cost of providing the facilities or infrastructure for which the fees are charged. The Study covered the following types of facilities and improvements:

- Police Facilities and Equipment
- Fire Protection Facilities
- Libraries Facilities and Equipment
- Water System Improvements
- Wastewater System Improvements
- Park Acquisition
- Park Development
- Community and Recreation Centers
- Street Improvements
- Traffic Signals
- Bikeways
- Refuse Containers

The completion or expected completion of several documents prior to 2003 facilitated the identification of the facilities necessary for new development. Some of the documents include:

- 2000-2015 Capital Improvement Program
- 2004 Kennedy-Jenks Wastewater Treatment Plant Study
- 1997 General Plan Update including the Housing Element

Input from City staff was solicited to identify needs resulting in the types of facilities and improvements included in the scope of the final Study. From the documents and other input, estimated cost figures were determined.

PREVIOUS DISSEMINATION PROCESS, PUBLIC NOTICE, PUBLIC HEARING AND IMPLEMENTATION

After the Maximus draft Study was received, staff sent out notices to 81 developers, builders and other interested parties about a public workshop on the proposed update of Impact Fees. The notice advised them that a copy of the draft Study was posted on the City's web site and provided information on the City staff to contact for questions on the Study or to request a printed copy of the Study. The workshop was held on Wednesday, November 19, 2003, at 1:00 p.m. in the City Council Chambers. Notice of the November 19 workshop was also published in a display ad in the Lompoc Record on Friday, November 14. Public notice of the December 2, 2003, public hearing was published in the November 21 Lompoc Record. These steps were taken to disseminate information regarding the draft Study and the proposed fee updates so interested

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parties could obtain information in an informal setting prior to the December 2 public hearing. The noticing requirements in the Mitigation Fee Act (Gov. Code, Sections 66000 et seq) were complied with.

The public hearing was held on December 2, 2003 and the enabling ordinance was adopted. The new fees became effective 60 days after they were approved by the City Council, approximately February 1, 2004. However, development projects that had a vesting tentative map for which the application had been deemed complete would pay fees in accordance with the fee schedule in effect at the time the tentative map [application] was deemed complete. The fee schedule in effect for those prior development projects are locked in for those developments, even if the fee payments are made after the new fees became effective. The Planning Division was tasked with determining whether a vesting tentative map application is deemed complete.

DISCUSSION

City staff has been requested to begin the process to update the Study in compliance with AB1600 with an emphasis on the fee components for public safety facilities and park acquisition and development. Staff has also identified other fee components that should be reviewed during the proposed update process. In particular, the recent State mandate to provide fire sprinklers in single-family and duplex dwelling units, has affected the minimum size requirements for water meters in some residential applications, which would otherwise require a larger meter size and a related higher impact fee.

However, in comparison with the previous Study process, several supporting processes, studies or reports have not concluded yet. The previous RFP issued in 2003 included the following:

It should be noted that the commencement of this Project shall coincide with the completion of three studies which are critical to performance of scope of services set forth in this Request for Proposals. Contracts have been awarded for these studies. The Library Expansion Study is expected to be completed prior to [December 31, 2002]. The Wastewater Master Plan is completed and will be presented to Council for approval in December, 2002. The 15-Year Capital Improvement Plan will be presented to the City Council at their December 17, 2002 meeting.

Reference Documents. In addition to the Municipal Code sections, and resolutions relating to services and facilities, the successful proposer shall be responsible to review, analyze, and incorporate the substance of the following documents into the Development Impact Fee Update: (1) The CITY's General Plan dated 1997 including any amendments as may be approved by the CITY as of the date of

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contract for this study; (2) The Final Environmental Impact Report (including all relevant Appendices) for the City's General Plan dated October, 1997; (3) 2000 Urban Water Management Plan (Water Master Plan); (4) 1996 Wastewater Reclamation Plan; (5) Wastewater Baseline Odor Study Report; (6) Wastewater Reclamation Plant Master Plan. Copies of the relevant reference documents, including Code sections, specific plans, and resolutions are or will be available from the City Clerk, Public Works, Community Development, and Utility Departments.

In addition to the above referenced documents and studies that had been done in preparation for the 2003 Development Impact Fee Study, a listing of vested maps was provided to identify those approved projects that would be "grandfathered" regarding the implementation of the existing (pre-2004) fee schedule. As with the 2003 Study, if a new Study were to be performed, several vested projects would be "grandfathered" with the existing fee schedule. Following is a partial listing of projects along with the number of proposed units and the current expiration dates for the vesting (subject to extension by the State which has already extended the deadlines at least once in the last few years):

<u>Project</u>	<u>Units</u>	<u>Expiration Date</u>
Gardens at Briar Creek – South 76 units have been completed	150	under construction
The Courtyards – North 15 units have been completed – total units revised down to 80	145	on hold
River Terrace	308	8/16/2014
Crown Laurel	73	under construction
Don Barber – V & North	8	9/12/2014
Chestnut Crossing	43	6/12/2015
Mosaic Walk	13	7/10/2014
Mosaic Walk	60	7/10/2014
Coastal Meadows	42	6/12/2015
Bobbi McGinnis – No K St	5	5/8/2015
Burton Ranch	55	5/14/2015
Burton Ranch	210	5/14/2015
Santa Rita Hills Wine Center Non-residential project	1	7/7/2015
Cypress Court	60	6/9/2014

The above projects reflect over 1,000 units that are currently vested and would have fees based on the current Study in effect from 2003. Due to the difficulties in obtaining financing for projects during the previous and continuing economic climate, the State enacted legislation in 2008, 2009 and 2011 to grant extensions for all active subdivision maps allowing extensions up to January 1, 2016. There is no way to determine whether the State will provide additional extensions in the future. If a new study were to be commissioned in 2012, then it is likely that the above projects would not be subject to the newly enacted fees.

In addition to the above 1,000 potential units that can be built under vested subdivision maps, the City's 2030 General Plan Housing Element, adopted in 2010, has identified developable parcels within the City that would be subject either to the current Development Impact Fees or, if a new study is commissioned, completed and adopted, subject to the newly determined fee structure. According to the Housing Element, the number of residential units forecasted to be developed by 2014 is 1,731. That number includes the previously mentioned vested units of 1,031. That would leave 700 forecasted units between now and 2014 that a new Impact Fee structure could potentially capture. If all 700 units were developed as single-family homes at the 2011-2012 fee amounts, then the total Impact Fees generated would be approximately \$12,250,000 across all the individual fee components. The 1,031 vested subdivision map units would generate approximately \$9,750,000 in Impact Fees, if all were developed this year. The 1,031 vested units would also generate \$3,125,000 in Quimby Act fees.

For reference, individual components of the Development Impact Fees that are effective for a single-family residential unit during 2011-2012 are as follows:

<u>Impact Fee</u>	<u>Subdivision Map Act</u>	<u>Non-Subdivision</u>
Park Improvements	\$-0-	\$4,129
Park Acquisition	-0-	3,958
Recreation Centers	984	984
Libraries	599	599
Water Utility	1,613	1,613
Wastewater Utility	746	746
Police Facilities	222	222
Fire Facilities	201	201
Street Improvements*	4,544	4,544
Traffic Signals	235	235
Bikeways	41	41
Refuse Containers	<u>269</u>	<u>269</u>
Total	<u>\$9,454</u>	<u>\$17,541</u>

* This fee is currently suspended by Council actions on December 16, 2009 and March 15, 2011.

The Quimby Act fee for a single-family residential unit is currently \$3,030. Therefore, the total of Quimby Act fees and Impact Fees for a single-family residential unit that is part of a subdivision is currently \$12,482.

The ongoing General Plan update will soon address the Land Use Element. Substantial effort has been made in this component to address economic effects of new development on the community and to place a value on development that would need to be mitigated in order for the development to occur. That

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component would create a nexus between the development and costs to the community caused by the development. The result of the adoption of the proposed Land Use Element will be the addition of several tools, such as Development Agreements between the City and potential new developers, which will assist the City with recovering those additional costs of development and to provide the resulting improvements that will eventually be needed. The completion of the Land Use Element will provide a framework for the circulation element. The Street Improvements component of the Impact Fees could then be revised based on the revised needs identified, as part of a future study. If a Study were to be done before this component is available, then determining a new fee amount would be difficult to do. Meetings are tentatively scheduled for the months of January and February 2012 that will address possible future expansion areas, Zoning Map changes and Land Use and Circulation elements. The decisions made on these components of the 2030 General Plan will directly impact the scope of the Impact Fees developed as part of the proposed Study.

The Water and Wastewater Utilities have developed draft capital expenditure forecasts for 2012-2026 that will be utilized when analyzing the revenue requirements during the upcoming rate study for those utilities. Other than that draft capital improvement plan, the City's most recent approved capital improvement plan was approved in 2002 and is effective through the 2016-2017 fiscal year. That plan identified \$150,963,000 of improvements needed in the above timeframe. That plan was likely a valuable resource for the 2003 Study. An updated capital improvement plan for the entire City would be a valuable tool for an updated Study. That is especially true in the current economy, as the General Fund capital outlay budget for the 2009-2011 and the 2011-2013 periods was minimized to assist with the balancing challenges. There likely are substantial deferred capital expenditures from the 2002 capital improvement plan that will have to be evaluated as part of the updated Study.

In addition to 2030 General Plan components, a new Urban Water Management Plan was adopted at the June 21, 2011, City Council meeting. The previous Urban Water Management Plan was identified as one of the documents used in the 2003 Study.

New development is subject to numerous financial exactions before the development is completed. For the City of Lompoc, the following are some of the indirect components that can be imposed, depending on many factors:

- Development Impact Fees – Street Improvement fee currently suspended
- Quimby Act Fees
- Housing In-Lieu Fees
- Water and Wastewater Retrofit Fees – currently suspended

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If one of those components is updated, then it would be pragmatic to include all the types of fees in an update Study (or separate studies depending on the expertise needed).

Proposition 26 passed in November 2010 limits the ability of the City of Lompoc to charge fees in excess of costs. The proposition provided for exceptions to those limitations, such as the imposition of penalties for non-payment of a charge. Development Impact Fees appear to fall under one of the specific exceptions identified under Proposition 26. The above exactions relate to the community effect of development. However, the process to develop a real estate project also includes several steps where the developer pays fees for the direct benefit of the project (planning fees, inspection fees, permit fees, predevelopment fees, etc).

Proposition 26 does not prohibit the recovery of costs by the City of Lompoc; rather, it requires the charges imposed for a service not exceed the cost of providing that service. Cities have initiated fee studies in the past to identify service areas that may require an adjustment in the fees charged. San Luis Obispo is an excellent example in that they have had three studies over the past ten years. Their studies were done with the intention of identifying those areas where costs are recovered and those areas where costs are not fully recovered. The studies provided their City Council the ability to apply the fee structure to best facilitate their goals and objectives. Some fees were purposely left below the level of full recovery to foster the City's goals and objectives. In addition, the value of the goals and objectives could be determined by the subsidy placed on that service. As an example from the San Luis Obispo study, the consultant provided a table showing the cost recovery opportunities for the General Fund. The framework of the table is as follows:

Department	Total Cost	Cost Recovery		Potential Revenue	
		Current	@ Policy	Full Recovery	@ Policy
Police	\$ 474,261	\$ 318,098	\$ 323,096	\$ 156,163	\$ 4,998
Fire	1,231,346	502,330	811,399	729,016	309,069
Recreation	3,887,755	1,163,930	1,177,517	2,723,825	13,584
Planning	1,471,143	986,043	1,452,417	485,100	466,374
Building	1,549,392	1,049,878	1,549,392	499,514	499,514
Engineering	923,011	528,106	923,011	394,905	394,905
General	<u>296,100</u>	<u>258,275</u>	<u>296,100</u>	<u>37,825</u>	<u>37,825</u>
Total Gen Fund	<u>\$9,833,008</u>	<u>\$4,806,660</u>	<u>\$6,532,929</u>	<u>\$5,026,348</u>	<u>\$1,726,269</u>

The study identified that the City of San Luis Obispo was collecting less than 50% of its costs in the identified scope of the study. Base on the study, an additional \$1,726,269 of potential fee revenue was identified and the fee structure was adjusted accordingly. An additional \$3,300,000 of potential fee revenues were not adjusted to full recovery levels to foster the Council's goals and objectives spelled out in policy and identified in the fee study. The City of San Luis Obispo had continued to educate their residents about the subsidies

being provided and how those subsidies are targeting the specific policies of the City to encourage certain sectors of the economy or other policy objectives.

An additional benefit of performing a fee study today, similar to the one done by the City of San Luis Obispo in 2008, would be to verify all existing fees are at levels in accordance with Proposition 26. There are likely additional revenues the City could generate if a comprehensive fee study was commissioned. In addition, if any fees are not meeting the Proposition 26 regulations, then they could be adjusted such that they would be in compliance. Finally, the City Council would be able to identify the programs where full cost recovery would not be in the best interest of the City and would be able to identify the cost of that policy decision.

EFFECTIVE DATE OF NEW IMPACT FEES

Those projects with building permits issued on or after the effective date for the new fees, would pay based on the new development fee schedule, unless the project is otherwise vested. In the City, Development Impact Fees are normally paid after the final inspection or when the certificate of occupancy is issued, but can be paid at the time the building permit is issued. The Council has the option of having the new fees not apply to developments, based on some criteria other than issuance of building permits. The Council also has the option of having the new fees apply to developments; unless the project has a legally recognized vested right. Under the law, a vested right is obtained by (i) issuance of a valid building permit and substantial construction performed in reliance of that permit, (ii) submittal of a complete application for a vesting tentative map and (iii) approval of a development agreement.

FISCAL IMPACT

It is unknown at this time what the successful RFP fee structure would be, were this request to propose were approved. However, a new Impact Fee Study would likely be similar in cost to the previous Study which cost \$97,767 during the 2003 and 2004 fiscal years. That amount was spread evenly among six different funds. The 2011-2013 approved budget does not include funds for a Study; however, the calculation of the fees based on this Study can incorporate the recovery of the cost of the Study. The true fiscal impact of the Study will be the incremental change in the total amounts collected for each component as compared with what would be received if the current Study were to remain in effect. The proposed Study will likely rely on a different set of underlying assumptions of needed infrastructure as compared with the existing Study. As such, the recommendation includes a request to appropriate funds from up to ten different funding sources to allow for a potentially more comprehensive schedule of fees.

CONCLUSION

The above information is provided so the Council can make an informed decision regarding whether this is the appropriate time to initiate a study to update Development Impact Fees or to request additional studies for other development related or general fees. It is a wise path to have an updated impact fee methodology approved prior to the next development rush. Information from a recent seminar indicates the State is in a fiscal recovery, but the housing market will likely not recover to pre-2005 activity until at least 2015 and possibly as late as 2019.

APPROVED FOR SUBMITTAL TO THE CITY ADMINISTRATOR:

Brad Wilkie
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APPROVED FOR SUBMITTAL TO CITY COUNCIL:

Laurel M. Barcelona
City Administrator

Attachments:

[Draft Request for Proposals
2003 Development Impact Fee Study](#)