

B. Carlson

#16 BOS 3/10/15  
#17

bldgdisp (4).txt

Building Permits  
2009 Building Permits  
Monthly New Privately-Owned Residential Building Permits  
El Dorado County, California ( 017)

Item	Reported Only		Estimates with Imputation			
	Construction Units	cost	Buildings	Units	cost Buildings	
Single Family	139	38242714	139	139	38242714	139
Two Family	2	358074	1	2	358074	1
Three and Four Family	0	0	0	0	0	0
Five or More Family	0	0	0	0	0	0
Total	141	38600788	140	141	38600788	140

Source: U.S. Census Bureau

From:  
Henry Batsel

Census EDC  
2007  
2013

NO 14 yet

bldgdisp.txt

Building Permits  
2013 Building Permits  
Monthly New Privately-Owned Residential Building Permits  
El Dorado County, California ( 017)

Item	Reported Only		Estimates with Imputation			
	Units	Construction cost	Buildings	Units	Construction cost Buildings	
Single Family	205	87537892	206	206	87833588	205
Two Family	0	0	0	0	0	0
Three and Four Family	0	0	0	0	0	0
Five or More Family	0	0	0	0	0	0
Total	205	87537892	206	206	87833588	205

Source: U.S. Census Bureau

bldgdisp (2).txt

Building Permits  
 2011 Building Permits  
 Monthly New Privately-Owned Residential Building Permits  
 El Dorado County, California ( 017)

Item	Reported Only		Estimates with Imputation			
	Construction Units	Construction cost	Buildings	Units	Construction cost Buildings	
Single Family	141	54457486	141	141	54457486	141
Two Family	0	0	0	0	0	0
Three and Four Family	0	0	0	0	0	0
Five or More Family	0	0	0	0	0	0
Total	141	54457486	141	141	54457486	141

Source: U.S. Census Bureau

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B. Carlson # 16  
# 17

BOS 3/10/15

March 10, 2015

Chairman Brian Veerkamp  
El Dorado County Board of Supervisors

RE: Agenda Items 16 and 17 – mitigation fee approvals

Dear Board Members;

This is a protest letter contesting the approval of continuing the collection of mitigation for all items listed for review and approval for agenda items 16 and 17. Further, this protest is also a request to return funds of impact fees to payers of the fees for the following reasons.

Government Code 66001 (attached) is clear that nexus requirements are required to be made every five years and that if findings are not made funds are to be returned to payers. Most of the reports required under the Ca. gov. code 66001 are incomplete as to findings establishing a nexus and the reports (excepting two) last updates are from 2007. Further, a nexus finding for fire and recreation fees require nexus findings annually in the El Dorado County Municipal codes 13.30.06 and 13.20.010 - 13.20.050. Although the reports reflect the reporting under Ca. gov. code 66006 (annual reporting) they do not meet the requirements of 66001 and the aforementioned EDC municipal codes.

None of the reports reflect the appropriate calculations required for fair share funding requirements. Most reports do not include nexus findings (under local and state codes) and all but two districts meet the five year requirements under 66001.

Since the nexus requirements are beyond the sophistication of most county supervisors, county counsel should be a party to the review of the materials. This is a matter of common sense and is required of counsel to review the materials. County Counsel is quiet on the matter and acquiesces to the approval of illegally collecting the fees. County counsel non-performance of their duties places the county in legal peril. Further, the county's attorneys are subject to state bar complaints for malfeasance of duties. This board was advised by county counsel to approve this same matter irrespective of objections by the county auditor. The laws of our municipal code and government code are blatantly disregarded as a result of improper ethics demonstrated by county counsel. Our opinion is that any attorney involved in this matter should be disbarred and fired from their job for providing advice contrary to the rule of law.

As an elected official we are required and have sworn an oath to follow the constitution and the laws of the state. Are we doing that? If not we need to make repairs to restore accountability to the public.

Respectfully,

Bernard Carlson

Henry Batsel

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66001. (a) In any action establishing, increasing, or imposing a fee as a condition of approval of a development project by a local agency, the local agency shall do all of the following:

(1) Identify the purpose of the fee.

(2) Identify the use to which the fee is to be put. If the use is financing public facilities, the facilities shall be identified. That identification may, but need not, be made by reference to a capital improvement plan as specified in Section 65403 or 66002, may be made in applicable general or specific plan requirements, or may be made in other public documents that identify the public facilities for which the fee is charged.

(3) Determine how there is a reasonable relationship between the fee's use and the type of development project on which the fee is imposed.

(4) Determine how there is a reasonable relationship between the need for the public facility and the type of development project on which the fee is imposed.

(b) In any action imposing a fee as a condition of approval of a development project by a local agency, the local agency shall determine how there is a reasonable relationship between the amount of the fee and the cost of the public facility or portion of the public facility attributable to the development on which the fee is imposed.

(c) Upon receipt of a fee subject to this section, the local agency shall deposit, invest, account for, and expend the fees pursuant to Section 66006.

(d) (1) For the fifth fiscal year following the first deposit into the account or fund, and every five years thereafter, the local agency shall make all of the following findings with respect to that portion of the account or fund remaining unexpended, whether committed or uncommitted:

(A) Identify the purpose to which the fee is to be put.

(B) Demonstrate a reasonable relationship between the fee and the purpose for which it is charged.

(C) Identify all sources and amounts of funding anticipated to complete financing in incomplete improvements identified in paragraph (2) of subdivision (a).

(D) Designate the approximate dates on which the funding referred to in subparagraph (C) is expected to be deposited into the appropriate account or fund.

(2) When findings are required by this subdivision, they shall be made in connection with the public information required by subdivision (b) of Section 66006. The findings required by this subdivision need only be made for moneys in possession of the local agency, and need not be made with respect to letters of credit, bonds, or other instruments taken to secure payment of the fee at a future date. If the findings are not made as required by this subdivision, the local agency shall refund the moneys in the account or fund as provided in subdivision (e).

(e) Except as provided in subdivision (f), when sufficient funds have been collected, as determined pursuant to subparagraph (F) of paragraph (1) of subdivision (b) of Section 66006, to complete financing on incomplete public improvements identified in paragraph (2) of subdivision (a), and the public improvements remain incomplete, the local agency shall identify, within 180 days of the determination that sufficient funds have been collected, an approximate date by which the construction of the public improvement

will be commenced, or shall refund to the then current record owner or owners of the lots or units, as identified on the last equalized assessment roll, of the development project or projects on a prorated basis, the unexpended portion of the fee, and any interest accrued thereon. By means consistent with the intent of this section, a local agency may refund the unexpended revenues by direct payment, by providing a temporary suspension of fees, or by any other reasonable means. The determination by the governing body of the local agency of the means by which those revenues are to be refunded is a legislative act.

(f) If the administrative costs of refunding unexpended revenues pursuant to subdivision (e) exceed the amount to be refunded, the local agency, after a public hearing, notice of which has been published pursuant to Section 6061 and posted in three prominent places within the area of the development project, may determine that the revenues shall be allocated for some other purpose for which fees are collected subject to this chapter and which serves the project on which the fee was originally imposed.

(g) A fee shall not include the costs attributable to existing deficiencies in public facilities, but may include the costs attributable to the increased demand for public facilities reasonably related to the development project in order to (1) refurbish existing facilities to maintain the existing level of service or (2) achieve an adopted level of service that is consistent with the general plan.

- **Sec. 13.20.020. - Fire district improvement fee.**

A fire district improvement fee is established on the issuance of all building permits for development within the district to pay for public improvements and fire equipment. The Board of Supervisors shall, in a Board of Supervisor's resolution, set forth the specific amount of the fee, describe the benefit and impact area on which the development fee is imposed, list the specific public improvements or equipment to be financed, describe the estimated cost of these facilities, describe the reasonable relationship between this fee and the various types of new developments and set forth time for payment. As described in the fee resolution, this development fee shall be paid by each developer prior to issuance of a building permit for the commercial or industrial project or the respective dwelling units in a residential project. On an annual basis, the Board of Supervisors shall review this fee to determine whether the fee amounts are reasonably related to the impacts of development and whether the described public facilities or equipment are still needed.

*(Code 1997, § 13.20.020; Ord. No. 3991, § 2(part), 1988)*

- **Sec. 13.20.030. - Limited use of fees.**

The revenues raised by payment of this fee shall be placed in a separate and special account and such revenues, along with any interest earnings of the account, shall be used solely to:

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A.

Pay for the fire district's future construction of facilities or the acquisition of facilities or the acquisition of equipment described in the resolution enacted by the Board, or to reimburse the fire district for those described or listed facilities constructed or equipment acquired by the fire district with funds advanced by the fire district from other sources; or

B.

Reimburse developers who have been required or permitted to install such listed facilities which are oversized with supplemental size, length, or capacity.

*(Code 1997, § 13.20.030; Ord. No. 3991, § 2(part), 1988)*

• **Sec. 13.20.040. - Developer construction of facilities.**

Whenever a developer is required, as a condition of approval of a development permit, to construct a public facility described in a resolution adopted pursuant to this chapter which facility is determined by the district to have supplemental size, length or capacity over that needed for the impacts of that development, and when such construction is necessary to ensure efficient and timely construction of the facilities network, a reimbursement agreement with the developer and a credit against the fee, which would otherwise be charged pursuant to this chapter on the development project, shall be offered. The reimbursement amount shall not include the portion of the improvement needed to provide services or mitigate the need for the facility or the burdens created by the development.

*(Code 1997, § 13.20.040; Ord. No. 3991, § 2(part), 1988)*

• **Sec. 13.20.050. - Fee adjustments.**

A developer of any project subject to the fee described in this chapter may apply to the Board of Supervisors for a reduction or adjustment to that fee, or a waiver of that fee, based upon the absence of any reasonable relationship or nexus between the fire facilities or equipment and impacts of the development and either the amount of the fee charged or the type of facilities to be financed. The application shall be made in writing and filed with the County Clerk not later than (a) ten days prior to the public hearing on the development permit application for the project, or (b) if no development permit is required, at the time of the filing of the request for a building permit. The application shall state in detail the factual basis for the claim of waiver, reduction, or adjustment. The Board of Supervisors shall consider the application at the public hearing on the permit application or at a separate hearing held within 60 days after the filing of the fee adjustment application. The matter may be referred to the Board of the district for their recommendation. The decision of the Board of Supervisors shall be final. If a reduction, adjustment, or waiver is granted, any change in use within the project shall invalidate the waiver, adjustment or reduction of the fee.

*(Code 1997, § 13.20.050; Ord. No. 3991, § 2(part), 1988)*

**Sec. 13.30.060. - Annual review.**

The Board of Supervisors shall review, on an annual basis, each parks and recreation capital facilities and equipment development impact mitigation fee established hereunder. Each district for which a fee has been established shall annually update its plan and perform the accounting required by Government Code § 66006, and shall provide to the County all the necessary information to allow the County to determine whether the fee amounts continue to be reasonably related to the impacts of development and whether the described capital facilities or equipment described in the plan are still required. The Chief Administrative Officer and the County Auditor shall review the information and make recommendations regarding the amount of the fee and any other aspect of the administration by the impacted district of moneys received hereunder. The impacted district shall reimburse the County for all costs incurred by the County in the review, including, but not limited to, costs for staff review and public notice, if necessary.