



Board of Supervisors Agenda 8-15-17 Proposed change In Special District Impact Fee Ordinance

Joe Harn <joe.harn@edcgov.us>

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Cc: The BOSFOUR <bosfour@edcgov.us>, The BOSFIVE <bosfive@edcgov.us>, The BOSONE <bosone@edcgov.us>, The BOSTHREE <bosthree@edcgov.us>, The BOSTWO <bostwo@<sue.novasel@edcgov.us>

Chiefs & GMs,

The purpose of this email is to give you a heads up regarding Tuesday's Agenda. I want to make sure that your district is aware of the agenda item.

This agenda item as proposed will transfer just about all the risks related to the collection of impact fees (developer fees paid by home builders) from the County to special dist risk transfer is too all-encompassing and in some instances not fair to the special districts.

I am going to ask that the item be continued off calendar because I strongly disagree with portions of the agenda item. I hope I can resolve some of my differences with the CA time to work with the CAO.

Our CAO, Don Ashton, inherited an incredible mess related to special district impact fees and I respect his efforts to fix the mess and a number of other messes Mr. Ashton in

Joe Harn

Below is the CAO's Board letter for this item which will be heard on August 15, 2017.

Title

Chief Administrative Office recommending the Board consider the following:

- 1) Approve the Introduction (First Reading) of Ordinance **5057** repealing Chapter 13.30 regarding Community Services District and Parks and Recreation amending Chapter 13.20 of the County ordinance code regarding Development Fees for Fire Protection Service to set forth requirements for the established development impact mitigation fees collected by the County on behalf of Special Districts within the County; and
- 2) Waive full reading, read by title only and continue this matter to August 29, 2017 for Final Passage (Second Reading). (Est. Time: 15 Min.)

FUNDING: N/A

Body

DEPARTMENT RECOMMENDATION

- 1) Approve the Introduction (First Reading) of Ordinance **5057** repealing Chapter 13.30 regarding Community Services District and Parks and Recreation amending Chapter 13.20 of the County ordinance code regarding Development Fees for Fire Protection Service to set forth requirements for the established development impact mitigation fees collected by the County on behalf of Special Districts within the County; and 2) Waive full reading, read by title only 29, 2017 for Final Passage (Second Reading).

DISCUSSION / BACKGROUND

As part of the ongoing efforts to pursue efficiencies and modernize our operations, the Chief Administrative Office has been working on updating the County Supervisors Policy Manual. One of the guiding principles of this process has been to avoid duplication of existing state and federal laws and regulation:

On December 6, 2016, in accordance with Board policy A-3 - Ordinances - New or Amended, the Board conceptually approved the revision of Chapters provisions that are duplicative of or more restrictive than state law.

The establishment and administration of development impact mitigation fees are governed by the Mitigation Fee Act (Cal GOV 66000 et seq.) ("the Act") Chapters 13.20 and 13.30 regarding development impact fees on behalf of special districts for fire protection services and parks and recreation, respectively are duplicative of state law, the County's ordinance includes provisions that are much more restrictive than state law in regard to reports submitted to the increasing the administrative burden on the County and the Special Districts.

The ordinance, as amended, will require compliance with the Act, but will not require separate reporting to the County above and beyond what is required already includes sufficient safeguards against the establishment of unreasonable fees and the misuse or unwarranted retention of fee revenues. Because fee on its own, all development impact fees must be established by the Board of Supervisors. In order to establish a fee, the Mitigation Fee Act requires a reasonable relationship (nexus) exist between the fee and its proposed use and between the fee and the type of development upon which it is charged. To establish a fee, it has an opportunity to thoroughly review the fee, the methodology that was used to calculate it, and assess the reasonableness of its proposed uses and between the fee and the type of development upon which it is to be imposed. If the requesting district has failed to meet the requirements, the option to deny establishment of the fee and request that the district revise its request to comply with the Act.

The Act further requires that an accounting of fee revenue and expenditures be made public annually, and that the Board of Supervisors make specific findings a portion of the fee every five years. These findings include: identification of the purpose for which the fee is charged, demonstration of a reasonable relationship between the fee and the stated purpose, and identification of the sources and amounts of revenues required to complete improvements and the dates on which those revenues are

The annual reporting required by the Act provides an opportunity for the Board and the public to request further information from a district regarding its findings, which must be made by the Board of Supervisors, provide yet another opportunity for the Board to review the fee and determine whether to collect the fee.

This recommendation is also made, in part, to place more of the responsibility for these fees with the independent, elected boards of the districts. The Board of Supervisors is the body vested with the legal authority to establish the fee, policy and management decisions regarding the establishment of the fee and matters of governance for the district boards. In recognition of this, the amended ordinance will require the County and the district requesting the fee to clearly define the roles of the County and the district in the collection and administration fee, and require the district to adhere to the Mitigation Fee Act requirements that are harmless against any claims resulting from its activities related to the district's fees.

The current ordinance also requires a written agreement for the collection of parks and recreation impact fees, but does not require the same for the proposed ordinance applies to any impact fee proposed by a Special District for establishment and collection by the County. It requires that the district clearly define the rights and duties of each party, and provide for the Special District to defend, indemnify, and hold the County, its officers, and

and against any and all liability, loss, damage, claims, judgments, costs, staff time, losses, expenses, and any other costs of defense arising out of, rest establishment, modification, collection, or disbursement of fees on behalf of the Special District. Counsel has drafted a sample agreement, which is attached. The agreement may be modified slightly for each district as necessary. All agreements will return for the Board for approval.

The proposed ordinance, a version of the ordinance with changes tracked, a summary of the ordinance, and the sample collection and indemnity agreement.

ALTERNATIVES

The Board could choose not to approve this recommendation, which would result in no change to the current ordinances.

OTHER DEPARTMENT / AGENCY INVOLVEMENT

County Counsel

CAO RECOMMENDATION

It is recommended that the Board approve this item.

FINANCIAL IMPACT

N/A

CLERK OF THE BOARD FOLLOW UP ACTIONS

N/A

STRATEGIC PLAN COMPONENT

Good Governance

CONTACT

Don Ashton, Chief Administrative Officer

Joe Harn
Auditor-Controller
El Dorado County



EDC COB <edc.cob@edcgov.us>

BOS Agenda 8-15-17 Special District Impact Fee Ordinance

1 message

Joe Harn <joe.harn@edcgov.us>

Mon, Aug 14, 2017 at 2:57 PM

To: The BOSONE <bosone@edcgov.us>, The BOSTWO <bostwo@edcgov.us>, The BOSTHREE <bosthree@edcgov.us>, Donald Ashton <don.ashton@edcgov.us>, The BOSFOUR <bosfour@edcgov.us>, The BOSFIVE <bosfive@edcgov.us>
Cc: EDC COB <edc.cob@edcgov.us>, Michael Ciccozzi <michael.ciccozzi@edcgov.us>, James Mitrison <jim.mitrison@edcgov.us>, Sue Novasel <sue.novasel@edcgov.us>, Sue Hennike <sue.hennike@edcgov.us>

August 14, 2017

Board of Supervisors

County of El Dorado

330 Fair Lane

Placerville, California 95667

Subject: BOS Agenda 8-15-17 Special District Impact Fees

Ladies and Gentlemen:

I do not support this item at this time. I believe that our current ordinances are quite workable. The problem that we have is that until last summer no meaningful attempt was made by the CAO to comply with our current ordinances.

The major changes in the draft ordinance that I have identified are requiring fire districts to indemnify the County, no longer will the fees be reexamined each year, and the Auditor-Controller will no longer be involved in the review of the Park impact Fees.

I would prefer that this item to be continued for two weeks.

Sincerely,

Joe Harn, CPA

Auditor-Controller

Joe Harn
Auditor-Controller
El Dorado County

 **BOS Let 8-14-17 Impact Fee Ordinance.pdf**
257K



County of El Dorado

OFFICE OF AUDITOR-CONTROLLER

360 FAIR LANE
PLACERVILLE, CALIFORNIA 95667-4193
Phone: (530) 621-5487 Fax: (530) 295-2535

JOE HARN, CPA
Auditor-Controller

BOB TOSCANO
Assistant Auditor-Controller

August 14, 2017

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County of El Dorado
330 Fair Lane
Placerville, California 95667**

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Sincerely,

A handwritten signature in blue ink, appearing to read "Joe Harn".

**Joe Harn, CPA
Auditor-Controller**

CC: Don Ashton, CAO