



Legislation Text

File #: 11-1040, **Version:** 1

Development Services Department, Planning Services Division, recommending the Board:

- 1) Receive and file the annual report for Fiscal Year 2010-2011 on the Oak Woodlands Management Plan (OWMP); and
- 2) Retain the fee amount as presently set, with the intention to review and update the fee, if necessary, after the conclusion of the currently pending litigation.

Background: On May 6, 2008, the Board adopted the Oak Woodland Management Plan (OWMP) implementing the mitigation fee option, identified as Option B, in General Plan Policy 7.4.4.4 (Legistar 07-1022). The implementing ordinance (Ordinance 4771, codified as County Code Chapter 17.73) came into effect on July 7, 2008. A provision in the OWMP requires an annual report to the Board of Supervisors, with the first fee adjustment study occurring at least 12 months after adoption of the OWMP, and every March thereafter. This is the third annual report.

Section 17.73.090 of County Code states, The Board of Supervisors shall annually review the success of the conservation fund in-lieu fee program with regard to the ability to acquire conservation easements on oak woodland habitat, the costs of management and maintenance of oak woodlands, and the amount of the fee.

Through June 2011, the County received a total of \$102,237 for oak canopy mitigation (Attachment A). The mitigation fund balance is currently \$102,905, including interest generated by the account. No funds have been expended as of this date.

The total canopy removed last year was 5.13 acres (Attachment B), including about 0.2 acre for the capital improvement project on Durock Road. One project chose to partially mitigate the impacts utilizing Option A in the amount of 0.7 acre of replanting. The amount of tree loss due to development was 4.95 acres.

At this time the fund has accumulated \$102,905 to mitigate for the loss of 18.5 acres of oak canopy removal (approximately \$5,500 per acre). This amount seems reasonable because rural land could likely be acquired in that price range.

Fee Adjustment

Due to the limited amount of funds received, the lack of any acquisition activity and the unknown costs for management, there has been no further assessment of the success of the Conservation Fund or whether the fee amount needs to be adjusted. While land prices continue to drop since the OWMP was adopted, it is unknown if that correlates to reduced costs for conservation easements and does not account for management. Once a management and acquisition strategy is approved and implemented through the Integrated Natural Resources Mitigation Plan (INRMP), there will be more information on which to base any possible adjustment, and land values may have stabilized so that an accurate assessment can be made.

Future Action

The Conservation Funds purpose is to be used for acquisition of conservation easements or land in fee as mitigation for the loss of oak canopy due to development. However, the OWMP is presently being litigated. An appeal filed with the courts has yet to be heard. Until a final decision has been rendered in the case, staff does not recommend making any changes to the program.

Additionally, the OWMP is a component of the INRMP, which has yet to be completed. The INRMP is expected to contain an acquisition and management strategy that will assist in the implementation of the OWMP and use of the conservation funds. In the interim, if a state or federal agency requested assistance in a land acquisition project that satisfied the conservation requirements of the plan for use of the funds, the Board may consider utilizing fund revenues for such assistance. Unless an opportunity occurs staff recommends the County continue to build the fund to be used for oak conservation efforts in the future.

Conclusion

The program has been successful to date. The County has implemented Option B of General Plan Policy 7.4.4.4, allowing numerous applicants to pay a mitigation in-lieu fee rather than provide on-site oak canopy retention or replacement. Fees collected correlate to the cost of rural land or easements. No change is recommended at this time with implementation of the OWMP due in part to the economy, unresolved litigation, and lack of an approved program for the management and maintenance of conservation easements. As work on the INRMP progresses, or a decision is rendered in the litigation, changes may be appropriate in the future.

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Attachment:

A - Annual Rollup

B - Spreadsheet of permits and projects utilizing in-lieu fee FY2011-12