



## Legislation Details (With Text)

**File #:** 22-1422 **Version:** 1  
**Type:** Agenda Item **Status:** Approved  
**File created:** 7/28/2022 **In control:** Board of Supervisors  
**On agenda:** 11/15/2022 **Final action:** 11/15/2022  
**Title:** Planning and Building Department recommending the Board receive and file the Annual Mitigation Fee Act Report for Fiscal Year 2021-22 for the Ecological Preserve Fee and Oak Woodland Conservation Fee Programs in compliance with California Government Code Section 66006.

FUNDING: N/A

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. A - Brief description of fee programs.pdf, 2. B - Fee Schedules.pdf, 3. C - Cash Statement.pdf

Date	Ver.	Action By	Action	Result
11/15/2022	1	Board of Supervisors	Approved	Pass

Planning and Building Department recommending the Board receive and file the Annual Mitigation Fee Act Report for Fiscal Year 2021-22 for the Ecological Preserve Fee and Oak Woodland Conservation Fee Programs in compliance with California Government Code Section 66006.

**FUNDING:** N/A

### **DISCUSSION / BACKGROUND**

#### Ecological Preserve Fee and Oak Woodland Conservation Fee Programs

In Resolution No. 130-2017, adopted on October 24, 2017, the Board of Supervisors recognized that recent court opinions involving inclusionary housing ordinances (affordable housing) had called into question whether or not the Mitigation Fee Act (Government Code 66000 et seq.) applies to the County's oak resources in-lieu fee payment option. The Board then stated the following in Resolution 130-2017: "While a similar argument could be made with regard to the oak resources in-lieu fee, there are factual differences; therefore, until a court finds that an in-lieu fee for preservation/mitigation of biological resources is not subject to the requirements of the Mitigation Fee Act, the County is taking a conservative approach and following the requirements of the Mitigation Fee Act in establishing an in-lieu fee for mitigation of impacts to oak woodland areas and individual oak trees ...." Staff notes that, in light of those court opinions, a similar argument could also be made that the Mitigation Fee Act does not apply to the Ecological Preserve Fee, which was first established by Resolution 205-98, adopted on July 28, 1998. However, until a court finds that a fee for preservation/mitigation of biological resources, such as the Ecological Preserve Fee, is not subject to the requirements of the Mitigation Fee Act, the County is taking a conservative approach and following the requirements of the Mitigation Fee Act in regards to the Ecological Preserve Fee.

Pursuant to Section 66006 of the California Government Code, the County is required to make available to the public specific information related to the prior year's activity for the County's mitigation fee programs. Attachments A, B, and C provide the information required by Section 66006

for the County's Ecological Preserve Fee and Oak Woodland Mitigation Fee programs:

Attachment A - A brief description of the fee programs (Section 66006(b)(1)(A))

Attachment B - Fee schedules (Section 66006(b)(1)(B))

Attachment C - Cash statement

- The beginning and ending balance of the accounts, (Section 66006(b)(1)(C)),
- The total fees collected (Section 66006(b)(1)(D)),
- Total interest earned in the funds (Section 66006(b)(1)(D)),
- Identification of expenditures for the accounts (Section 66006(b)(1)(E)), and
- Total refunds and other adjustments (Section 66006(b)(1)(H)).

Planning and Building will post the annual report information contained in Attachments A through C for Fiscal Year 2021-22 to the Department's website to comply with the 15-day public notice requirement of Section 66006(b)(2). Links will also be provided from the AB 1483/AB 602 webpage.

## **ALTERNATIVES**

N/A

## **OTHER DEPARTMENT / AGENCY INVOLVEMENT**

Chief Administrative Office, Community Development Finance and Administration

## **CAO RECOMMENDATION**

Approve as recommended.

## **FINANCIAL IMPACT**

The annual reports are informational and there is no associated fiscal impact or change to Net County Cost.

## **CLERK OF THE BOARD FOLLOW UP ACTION**

Clerk of the Board to receive and file the Annual Report following Board approval.

## **STRATEGIC PLAN COMPONENT**

Good Governance

## **CONTACT**

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