



AGENCY: City Council/MID  
MEETING DATE: September 23, 2019  
DEPARTMENT: City Manager/Finance  
PRESENTED BY: T. Miller/V. Damiani  
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## AGENDA ITEM SUMMARY

**TITLE:**

**Receive Report on Implementation of a Capacity Fee Deferral Program and Provide Direction to Staff**

**ISSUE:**

At the City Council Goal Setting Retreat on March 27, 2019, the City Council established three goals which support allowing developers and property owners to defer payment of water system and wastewater system capacity fees.

1. Jobs/Industry: Become more business and customer service friendly.
2. Jobs/Industry: Foster and help sustain local businesses.
3. Housing: Streamline permitting process and pursue creative approaches to fees.

Staff is drafting a Business Development, Economic Development and Housing Development Incentive Policy Manual to address the Council's Goals and create a tool for potential developers. One of the policies included in the Manual is the Capacity Fee Deferral Program (Attachment 1).

Habitat for Humanity of the Mendocino Coast is planning to build two housing units (630 and 640 Dubois) to provide housing for working families who would not qualify for traditional mortgages. One of the challenges Habitat for Humanity is facing is upfront payment of the development fees which total nearly \$15,000 for each unit, not including the building permit fee which is based on actual cost. Water and wastewater capacity fees are \$8,271 for each unit or \$16,542 in total.

Staff is recommending that City Council evaluate the proposed Capacity Fee Deferral Program, provide direction to staff and if appropriate, support Habitat for Humanity of the Mendocino Coast as the first participant of the program.

**ANALYSIS:**

Development fees generally fall into two categories: service fees and impact fees. Service fees cover the cost of staff time and overhead. These directly offset the cost of providing the service and by law must not exceed the reasonable cost to provide the service. Service fees include: plan review fees, building permit fees, grading fees and encroachment permits.

Development impact fees are one-time charges applied to new development and expansion to provide funding for the increased need for City infrastructure impacted by the service needs of new development. Fort Bragg collects three development impact fees and has a current moratorium on a fourth – Parking in Lieu of Fees. Those currently collected are:

1. Water System Capacity Fee
2. Wastewater System Capacity Fee
3. General Plan Maintenance Fee

Development impact and permit fees are often cited as a hurdle to building more housing in California and particularly for building affordable housing for working families.<sup>1</sup> In response, a number of jurisdictions have created programs to provide for deferral of some of these fees, to encourage construction of residential and/or nonresidential development projects. The fact that development fees are generally accumulated over years then used to pay for future projects, as opposed to current expenses, makes it easier to defer their collection. Current accumulated balances for the City of Fort Bragg Development Impact Fees are set forth below:

| Development Impact Fee     | Balance<br>06/30/2019* |
|----------------------------|------------------------|
| General Plan Maintenance   | \$ 254,812             |
| Parking -In-Lieu           | \$ 33,571              |
| Water System Capacity      | \$ 198,085             |
| Wastewater System Capacity | \$ 349,329             |

*\* Preliminary figures subject to audit and final adjustments.*

Some deferral programs delay collection of development impact and utility fees until occupancy certificate or final inspection of the building permit. This provides the advantage to the developer of not having to pay construction loan interest on those fees during construction, they can be wrapped up into the final financing. Typically, the jurisdiction does not charge interest during this period of time. Other jurisdictions, allow for longer term deferrals such as three to five years and provide for annual payments with interest to the jurisdiction at either a set published interest rate or index, or at a rate equal to what the jurisdiction would have earned on investments for that same period. Staff has proposed slightly shorter-term deferrals in order to reduce risk for the ratepayers. The longer the deferral term the higher the likelihood of default and possible lost fees. Additionally, longer terms may add more workload for a small City Finance Department.

Jurisdictions which allow deferrals to extend beyond issuance of the certificate of occupancy require security such as assignment of investment/account, irrevocable letter of credit, surety bond or a lien against the real property. Staff recommends requiring security, if the deferral is beyond issuance of the certificate of occupancy. Some programs defer 100% of the development impact fees and others only a portion of the fees, such as 50-80%.

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<sup>1</sup> [\*It All Adds Up – The Cost of Housing Development Fees in Seven California Cities, March 2018, Turner Center For Housing Innovation UC Berkeley\*](#)

The proposed Capacity Fee Deferral Program (Attachment 1) sets forth options for two programs, one which allows for a deferral of two years and another that allows for deferral of three years.

Two-year program – to be eligible for this program, the total qualified capacity fees must be over \$15,000 but less than \$100,000.

- Down payment – 20% of qualifying fees, plus all other fees due at time of permit issuance.
- Payment schedule – two equal annual installments, plus interest calculated on the unpaid principal.

Three-year program – to be eligible for this program, the total qualified capacity fees must be \$100,000 or greater.

- Down payment – 20% of qualifying fees, plus all other fees due at time of permit issuance.
- Payment schedule – three equal annual installments, plus interest calculated on the unpaid principal.

The rate of interest shall be equal to the Local Area Investment Fund (LAIF) published rate of interest at the time the Fee Deferral Agreement is signed. The current rate for August 2019 is 2.34%.

The proposed program does not distinguish between residential affordable, free market residential, commercial development or work within the Central Business District. The Council may want to consider differing thresholds based on Council priorities. For example, the Council may want to prioritize low-income or affordable housing with more advantageous terms. As a comparison, second unit accessory dwelling units (ADUs) are exempted from water and wastewater capacity fees. This is to encourage expansion of the housing inventory in the City with smaller typically less costly ADUs. Council could consider exempting affordable residential units from water and wastewater capacity fees. Staff suggests this be limited to non-profit developers or those who agree to hold the property at certain rental levels for a certain period of time. A reduction in capacity fees would shift this portion of capital improvements to the ratepayers who would make up the difference as a portion of the water or wastewater rate.

The proposed Capacity Fee Deferral Program does not defer the 1.5% General Plan Maintenance Fee, which is an additional consideration for Council, particularly for affordable residential development.

The Habitat for Humanity project will provide housing to two working families who would be unlikely to purchase a home outside of this or a similar program. The fees for one housing unit excluding the building permit fee (which is now based on a developer deposit and charged actual cost) are set forth below:

|   |                     |
|---|---------------------|
| <b>Valuation of 1,232 square foot residence</b> | <b>\$ 200,000</b>   |
| <b>Community Development</b>                    |                     |
| <b>General Plan Maintenance Fee (1.5%)</b>      | <b>\$ 3,000.00</b>  |
| Business License Fee (.04%)                     |                     |
| Building Permit Fee (DDA)                       |                     |
| New Construction Waste Recycling Deposit        | \$ 439.82           |
| Demolition Waste Recycling Deposit              | \$ -                |
| Waste Management Checklist Proc. Fee            | \$ 40.00            |
| <b>Community Development Department Fees</b>    | <b>\$ 3,479.82</b>  |
| <b>Completed by Public Works</b>                |                     |
| <b>WATER Capacity fee</b>                       | <b>\$ 4,631.00</b>  |
| WATER Connection fee                            | \$ 2,368.00         |
| <b>SEWER Capacity fee</b>                       | <b>\$ 3,640.00</b>  |
| Drainage fee                                    | \$ 810.70           |
| <b>Public Works Fees</b>                        | <b>\$ 11,449.70</b> |
| <b>TOTAL AMOUNT OF FEES</b>                     | <b>\$ 14,929.52</b> |

The capacity fees including the General Plan Maintenance Fee are highlighted in yellow and total \$11,271 per residential home, including the General Plan Maintenance Fee.

**RECOMMENDED ACTION:**

Staff recommends the Council review the proposed Capacity Fee Deferral Program (Attachment 1) and provide staff direction on the following:

1. Whether or not to implement a Capacity Fee Deferral Program?
2. Whether or not deferral of the General Plan Maintenance Fee should be considered, and if so should it be limited to residential development?
3. Is a down payment of 20% appropriate?
4. Should the amount allowed to defer be less than \$15,000 in the case of residential housing projects?
5. Should there be incentives for improvements to the Central Business District, specifically if an owner installs sprinklers?
6. Should the City allow interest free deferral until the building permit is finalized (Certificate of Occupancy issued)? or
7. Should the deferral time frame be extended to three to five years?
8. Should affordable housing projects be treated differently from market rate or commercial projects?
9. Does the Council want to waive water and wastewater Capacity Fees and/or General Plan Maintenance Fee for affordable housing projects?

**ALTERNATIVE ACTION(S):**

1. Direct staff not to develop a Capacity Fee Deferral Program.
2. Provide additional direction on a Capacity Fee Deferral Program.

**FISCAL IMPACT:**

Deferral of fees will impact the timing of revenue collection but if interest is charged at the current investment rate, which as of this report was 2.34%, the City will be compensated for the deferral. Capacity fees are built up over years and used for appropriate projects when funds are available and projects are necessitated. Delayed collections will likely have only minor impacts on the timing of projects and the City’s ability to offset the impact of growth on City infrastructure. If the Council decides to waive Water and Wastewater Capacity Fees, those lost revenues will be shifted to the ratepayers to meet capital infrastructure needs.

**GREENHOUSE GAS EMISSIONS IMPACT:**

If a Capacity Fee Deferral Program is successful and encourages development that would not otherwise have occurred, greenhouse gas emissions will be increased by the construction activities of the new projects.

**CONSISTENCY:**

At the City Council Goal Setting Retreat on March 27, 2019, the City Council established three goals which support allowing developers and property owners to defer payment of water system and wastewater system capacity fees.

1. Jobs/Industry: Become more business and customer service friendly.
2. Jobs/Industry: Foster and help sustain local businesses.
3. Housing: Streamline permitting process and pursue creative approaches to fees.

Additionally, encouraging the construction of housing and in particular affordable housing is consistent with the 2019 Housing Element adopted by the City Council on September 9, 2019.

**IMPLEMENTATION/TIMEFRAMES:**

If Council provides direction to implement a Capacity Fee Deferral Program and allow Habitat for Humanity to be the first participant in the program, an agreement and formal program would be provided to City Council on or before the October 21, 2019 meeting.

**ATTACHMENTS:**

1. Proposed Capacity Fee Deferral Program

**NOTIFICATION:**

1. Chuck Greenberg
2. Affordable Housing, Notify Me subscriber list
3. Economic Development Planning, Notify Me subscriber list