



**AGENCY:** Finance & Admin

**MEETING DATE:** August 10, 2022

**DEPARTMENT:** Finance/CDD/Admin/PD

**PRESENTED BY:** I.Whippy/C.O'Neal

## AGENDA ITEM SUMMARY

**TITLE:**

**RECEIVE REPORT, REVIEW PROPOSED FEES SCHEDULE AND CONSIDER MAKING A RECOMMENDATION TO THE CITY COUNCIL TO CONDUCT A PUBLIC HEARING TO REVIEW CITY-WIDE FEES FOR FISCAL YEAR 2022-2023**

**ISSUE:**

The City reviews and update the City's Fees, consistent with the goal to ensure, with only a few exceptions, that fees for City services are sufficient to fully recover the cost of providing those services. The attached proposed fees have been prepared to meet this strategic objective. The last Study was prepared and presented in May 2019, with a few additions and changes to fees for Planning Fees and Small Cell Wireless Facilities Fees in 2020 and 2021. During the 2019 fee schedule review, Staff researched and discussed the historical context of changing fees on an annual basis based on the time each activity described in the fee schedule took to complete. The conversation evolved to asking the question of why the City does a full analysis of fees charged every year and whether this best serves the Public. Staff time for each task and the cost of any external supplies or services are factored into the estimated average cost of performing the service.

The City's fees generate a relatively small portion of the overall forecasted revenue, less than 2% or \$148,000 for the City's General Fund. On the other hand, the amount of staff time required for a full annual analysis is fairly significant, including time spent by Staff throughout the organization. The time expenditure is concentrated in the Finance and City Manager's departments but includes time spent by each of the City's department heads and input from Staff at all levels.

The Finance and Administration Committee reviewed the proposed change to updating fees and recommended that a full analysis only be conducted every three years and that every other year, fees and charges (excluding water, sewer, and drainage capacity fees) are increased by the San Francisco-Oakland-Hayward CPI-U index. Historically, water, sewer, and drainage capacity fees have been increased using Engineering News Record-20 City Construction Cost Index (consistent with Resolution 2412-2000) to adjust impact fees. In September of 2021, the California Legislature passed Assembly Bill (AB) 602 and the Governor signed it into law. AB 602 creates some new requirements for impact fees that went into effect July 1, 2022. Accordingly, staff is not proposing any increases to impact fees at this time and instead intends to hire a consultant to perform a nexus study prior to any proposed changes.

Like prior studies, the attached fee schedule includes a calculation of the cost of providing services offered by the Community Development Department, the Public Works/Engineering Department, General Administrative services, and the Police Department and, with few exceptions, full-cost recovery recommended levels for fees the City charges and deposits collected for the listed services.

## **Legal Requirements**

State law contains a number of provisions that affect a City's establishing and updating City fees. They can be summarized generally as follows:

- (i) A City may set fees to recover the full cost of providing services, but fees cannot be levied in excess of the cost of service or for general revenue purposes.
- (ii) A Cost of Service Study may be used as the basis to calculate and set fees to recover the full cost of providing services and to make findings that the fees reflect a reasonable estimate of the cost of providing the applicable services.
- (iii) As for the process of adopting fees, State law requires that changes to the City's fees be presented to the City Council at a Public Hearing in accordance with Government Code section 66016, which requires that there be two publications of the meeting notice in the local newspaper, advance notice is provided to any party that requests to be notified of any proposed fee adjustments, and that the full package of the proposal is made available to the Public no less than fourteen days prior to the Hearing.
- (iv) In addition, approved changes may take effect no less than 60 days after approval.

Following the review and receiving direction from the Finance & Administration Committee, Staff will publish and provide the noticing requirements for the proposed changes herein and bring the proposed fees before the City Council on September 12, 2022, to conduct a Public Hearing. If approved, Staff recommends that any changes approved pursuant to this item become effective on December 1, 2022, which is 60+ days from the conclusion of the Public Hearing and approval.

## **Cost Recovery Strategy**

Some of the City's fees use a "Developer Deposit Account (DDA)," which is a Deposit against time and materials" approach for recovering the cost of providing many services- in particular, those where the amount of time/cost can vary greatly depending upon circumstances - and where the costs are generally higher; "flat fees" are utilized where the cost of service is typically less, more predictable, where the City Council has decided not to recover the full cost of service, and/or when cost recovery is prescribed or limited to a specific dollar amount by statute.

When an applicant requests a service administered with a deposit against time and materials, they complete a processing agreement, acknowledging the deposit and that they will be charged the actual time and materials costs for the work performed. They also agree to provide additional deposits if the costs exceed the initial deposit collected. The Finance Department sends a statement each quarter showing the individual charges to the project, and the Applicant can follow up with the Planning or Engineering Department with any questions about the work being performed. Using a deposit against time and materials approach provides a more effective means of holding the City and the Applicant accountable for the costs of processing applications that can range from simple and uncomplicated to complicated, controversial, and costly. It also assures the Applicant that the City is not collecting fees in excess of the cost of providing the service. It is not the easiest method to administer, but the advantages outweigh the cost.

This language is consistent with the Council's past policy that developers, rather than taxpayers, should pay for the costs associated with the City's processing of development applications.

## **ANALYSIS:**

Staff time and other costs incurred in conducting City business (such as processing of development and other applications, inspections, agenda and packet preparation, and most other services) are generally measurable and are provided for the benefit of individuals as opposed to the benefit of the community as a whole. Hence, fees for these activities are not taxes, but rather, they are fees for

services. The 2022-23 fee schedule update includes the following noteworthy changes:

### **A. Miscellaneous City Services Fees and Charges**

Increases in fees and charges for miscellaneous City services are governed by Government Code Section 66018. Miscellaneous fees and charges are limited to the amount necessary to cover the service's cost. If fees in excess of the cost are collected, they must be used to reduce the service charge cost. Excess fees cannot become a source of revenue for the General Fund. Section 66018 requires a public hearing to be noticed and held before the adoption of the fee increases. Actual costs can vary significantly from year to year based on staffing or the cost of supplies. Staffing costs can vary with turnover. Newer employees typically start at lower pay ranges and with a much lower pension benefit cost (due to the CalPERS pension reform of 2014).

By transitioning to a cost of living index most years, significant ups and downs in fees can be avoided.

- One category where fees are proposed to be reduced slightly or remain unchanged is Business License Fees, Appeal of Administrative Decision, and Letter of Public Convenience, or Necessity. Staffing changes in the Finance Department and Administration Department in the last three years resulted in a lower cost to provide this service.
- Minor changes are proposed to Public Safety Fees.
- No Changes to Copy Fees as they are more than local print shops and higher than other comparable cities' copying fees.
- The fee structure for Film Permits has been simplified in recent years by eliminating much of the verbiage and, instead, relying on a deposit account to recover City costs.
- No changes are proposed for the Old Rec Center Gym use fees.
- No Changes are proposed to Public Safety Fees.
- Custodian charges for Town Hall use are proposed to increase due to personnel costs for Maintenance position costs and similarly for the AV Tech use and setup fees.
- No Changes are proposed to the Water Conservation Fees

### **B. Planning and Development Fees**

Most of the changes to the Planning & Development fees result from changes in personnel costs. Some have increased as the person performing tasks has changed positions, and several have decreased as newer Staff perform the services. Other times fees change due to a recalculation of staff time associated with task completion, and sometimes it is a combination of both. Itemized below are notable changes to the Planning Department fees.

1. Fees that have increased due to changes in personnel costs include Hearing costs, coastal development permits, and use permits.
2. Conversely, Fees that decreased due to personnel changes include; Building Permit plan checks for CDD staff and emergency permits.
3. Fees that have changed due to recalculation of time and task performance include GIS Mapping fees, sign permit fees, and several administrative permit fees.
4. The following fees have changed primarily due to code changes or the method by which a service is performed:
  - a. Address: The cost to assign a street address was removed, and the proposed fee called "address label" now only includes the costs of paper and mailing per the addressing section of the municipal code.

- b. Zoning Letter: The cost to prepare a zoning letter was listed in previous iterations of the fee schedule but left off in the last iteration. It is being included back in as it is a relevant fee for a task that is completed by Staff upon request.
  - c. Parking In-Lieu Fees: Continue to be extended to assist new and expanding businesses in the Central Business District. A resolution has been presented to Council to extend the temporary waiver each December since 2012, and Staff is working on an update to the parking codes in the CBD using an MCOG planning grant to make recommendations to modify this fee process.
  - d. Cannabis: both cannabis business permit and permit renewal fees were newly added in keeping with code updates authorized by FBMC 9.30.080, which were not previously included in the fee schedule.
  - e. Design review costs have increased due to changes to the design guidelines.
5. Code enforcement fees are being removed entirely. This change is in response to proposed modifications to chapter 6 and chapter 1 of the FBMC, which will move away from fees and change to administrative penalties consistent with California State Codes. Staff recommends leaving one fee line item for code enforcement for the cost of abatement, which will be charged at Staff fully loaded rates.
  6. Finally, Staff recommended some changes to the method of fee collection by either collecting a developer deposit (DDA) or changing back to a flat fee when the DDA method was more cumbersome than useful for a particular fee like certificates of compliance and lot line adjustments.

### **C. Public Works Fees**

1. The grading and stormwater fee should be changed to a flat fee, as the time to review and condition a grading permit is fairly standard with no significant variation.
2. Fees that have gone up due to changes in personnel costs include; the processing fee for street and parade closures due to both personnel cost increases and the time associated with review and coordination; encroachment permit review and issuance fee, annual encroachment permit, annual backflow test, and grease trap application and inspection fees.
3. The oversize load permit fee is new, as we have seen a significant increase in modular and manufactured home installations. This fee would be coupled with the \$80 encroachment permit fee, and it covers the cost of time to review and coordinate the route and schedule an oversize load being delivered to town.
4. With the wastewater treatment plant upgrade, the improvement district can now provide septage receiving services. A new tipping fee for this service has been proposed.
5. While both water and sewer capacity fees have increased in accordance with the Engineering News-Record (ENR) Construction Cost Index by 8.0% between January 2021 and 2022 there are no proposed increases at this time. Instead staff will hire a consultant to perform a nexus study and those fee changes will be brought forward at another time. (ENR Attachment #1)
  - a. Also, per Resolution 4094-2018, the multi-family unit discount multiplier has been incorporated into the proposed fee schedule. It is 0.86 percent of the capacity charge for a single-family home.
6. Water and sewer connection costs have increased incrementally due to increases in personnel costs and the costs of materials and supplies.

- a. The high-demand meter was removed from the proposed fees schedule as it is no longer available.
- b. The cost to install the 4" and 6" meters is recommended to be charged as a flat fee instead of a deposit. Installation and costs in not typically variable enough to justify the extra staff time associated with processing deposits and refunds.
- c. The discount fee associated with the installation of a water and sewer service at the same time is being discontinued. Previously assumed cost savings were related to the potential for dual trenching and mobilizing. Due to the required horizontal separation and frequency of water and sewer lines being on opposite sides of the property, there is little to no reduction in costs borne by the City to perform a dual installation, thus, no discount can be afforded to the customer.

**FISCAL IMPACT:**

Although the exact fiscal effect of the proposed fee changes cannot be accurately estimated, changes in the fees charged for various planning and development fees as well as miscellaneous city services, reflect changes in the cost of providing those services. The fees impacted by the rate changes proposed in the attached resolutions account for approximately 2% of the City's total revenue or \$148,000 for the fiscal year 2022/23.

**RECOMMENDED ACTION:**

Following the committee's review and discussion, the following action is recommended:

Make a Recommendation to City Council to conduct the Public Hearing on September 12, 2022, and consider adopting the updated fees for various Planning and Development Services, and Miscellaneous City/District services.

**ALTERNATIVE ACTION(S):**

Conduct the review and direct Staff to provide additional analysis or changes to the proposed fees for action at a future meeting.

**ATTACHMENTS:**

Proposed Fee Schedule

**CONSISTENCY**

These fee updates are consistent with established City Council policy requiring full cost-recovery for services provided.

**IMPLEMENTATION/TIMEFRAMES:**

If approved, the fees will become effective on December 1, 2022. The Consolidated Fee Schedule will be updated and distributed to City staff and will be posted on the City's website.

**NOTIFICATION:**

None.