

SPECIAL MEETING
LODI CITY COUNCIL
CARNEGIE FORUM
305 WEST PINE STREET
LODI, CALIFORNIA
THURSDAY, OCTOBER 3, 1991
7:00 A.M.

REVIEW DEVELOPMENT
IMPACT FEE APPLICATION

CC-6 Pursuant to State statute the following notice was mailed
CC-46 under Declaration of Mailing to the following persons at
CC-56 least 24 hours in advance of the subject meeting.

NOTICE OF SPECIAL MEETING
OF THE LODI CITY COUNCIL

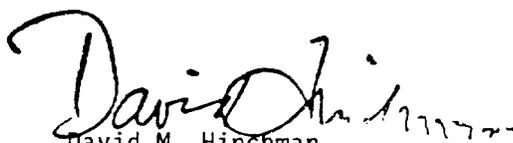
TO THE MEMBERS OF THE CITY COUNCIL OF THE CITY OF LODI, CALIFORNIA:

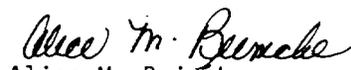
NOTICE IS HEREBY GIVEN that a Special Meeting of the City Council of the City of Lodi, California is hereby called to be held at approximately 7:00 a.m. or as soon thereafter as is possible on Thursday, October 3, 1991 in the Carnegie Forum, 305 West Pine Street, Lodi.

Said Special Meeting shall be for the following purpose:

- 1. Review development impact fee application

Dated: September 30, 1991


David M. Hinchman
Mayor


Alice M. Reimche
City Clerk

NOTICE OF SPECIAL COUNCIL MEETING
MAILING LIST

EXHIBIT "B"

Phillip A. Pennino
1502 Keagle Way
Lodi, CA 95242

John R. Snider
2328 Brittany Lane
Lodi, CA 95240

David M. Hinchman
1131 South Pleasant Avenue
Lodi, CA 95240

James W. Pinkerton
916 West Turner Road
Lodi, CA 95240

Jack A. Sieglock
1702 Timberlake Circle
Lodi, CA 95242

KCVR Radio
P. O. Box 600
Lodi, CA 95241

KSTN Radio
3171 Ralph Avenue
Stockton, CA 95206

City Clerk
City of Lodi

Community Development Director
City of Lodi

Tamma Adamek
Lodi News Sentinel
P.O. Box 1360
Lodi, CA 95240

King Videocable
Attn: Ms. Deanna Enright
1521 South Stockton Street
Lodi, CA 95240

Stockton Record
Attention: Sarah Williams
101 West Locust Street
Suite 4
Lodi, CA 95240

Lodi Magazine
P. O. Box 648
Lodi, CA 95241

City Manager
City of Lodi

Assistant City Manager
City of Lodi

City Attorney
City of Lodi

Public Works Director
City of Lodi

The meeting was called to order by Mayor David M. Hinchman
at 7:00 a.m.

Roll was recorded by the City Clerk as follows:

Present: Council Members - Pennino, Pinkerton, Sieglock
and Hinchman (Mayor) (Mayor
Hinchman was briefly absent
during the course of the
meeting).

Absent: Council Members - Snider

Also Present: City Manager Peterson, Community Development Director Schroeder, Public Works Director Ronsko, Assistant City Engineer Prima, City Attorney McNatt, and City Clerk Reimche

The topic of discussion, "Review Development Impact Mitigation Fee Application" was introduced by Assistant City Engineer Richard Prima who advised the City Council that since the adoption of the Development Impact Mitigation Fee Ordinance on September 4 (which will go into effect November 4), there have been some questions raised as to its applicability to vacant lots within the City.

As it pertains to this issue, the ordinance states:

15.64.020 Definitions

- "D. "Development" or "Project" means any of the following:
1. For water, sewer and storm drainage impact fees: any new connection to the City System or increase in service demand.
 2. For streets impact fees: any project that increases traffic.
 3. For police, fire, parks and recreation and general City facilities impact fees: any project generating new or increased service demand."

15.64.040 Payment of Fees

"A. The property owner of any development project causing impacts to public facilities shall pay the appropriate Development Mitigation Fee as provided in this Chapter . . ."

"D. If a final subdivision map has been issued before the effective date of this Ordinance, then the fees shall be paid before the issuance of a building permit or grading permit, whichever comes first."

(In the draft ordinance, subsection "D" was lettered "C"; the change was due to the Council's request to split payment for subdivision projects at final map and acceptance of improvements.)

"SECTION 4. Effective Date. This ordinance takes effect 60 days after its adoption. For purposes of this Chapter, building permit applications accepted and deemed completed prior to the effective date shall not be subject to the Ordinance."

The language is clear that vacant or partially vacant property in the City will be subject to the fees, whether it has frontage improvements, a map or other approval short of a completed building permit application.

Concerns have been raised about charging property already within the City limits. This property can be separated into many categories of development stage(s) including any combination of the following:

1. vacant (no building permit)
2. partially vacant (building permit on a portion of the parcel)
3. with or without frontage improvements
4. created with a final subdivision map or not
5. storm drain fees (previous impact fee) paid or not
6. nonconforming uses
7. conforming uses subject to obtaining a use permit
8. proposed uses requiring a rezoning
9. proposed project requiring a subdivision map
10. proposed project requiring some public improvement

Thus, without including all, it is more difficult to write and explain an ordinance that differentiates among them. If Council wishes to do so, staff will need additional direction. Also, the City has three recent annexations done prior to completion of the General Plan for which the property owners have signed agreements stating they will pay the fees. Staff assumes any development definition or new policy will require these parcels to pay the new fees.

Due to the Council's concern over this issue, staff has prepared an outline of the basic concepts and guiding policies of the adopted ordinance as it pertains to the fee calculations on Exhibit A shown below.

CITY OF LODI DEVELOPMENT IMPACT MITIGATION FEES

Basic Concepts & Guiding Policies of Adopted Ordinance

1. If there is new service demand (impact), the project pays its fair share (fee).
2. Payment at Final Map vs. at Building Permit or other time is a matter of when the fee is paid, not that it is owed.
3. Costs would be spread equally throughout the City wherever reasonable.
4. The new fees are not paying for normal frontage improvements; whether they are in place or not does change the impact on the services for which the fees are being charged.
5. Just because capacity improvements are built and paid for doesn't mean that subsequent buildings (service demand which uses that capacity) should not pay the fee; they still need to pay their fair share.
6. Existing service demands and levels of service were based on present population and occupancies.
7. All projects reasonably attributable to growth (increased service demand) are included.

Pro

Present ordinance and policies adequate.

Treats all property equally.

Consistent with past implementation of new development fees (Storm Drainage, Sewer Connection).

Con

Changes the "rules" on projects previously approved but not completed prior to the ordinance. (Although the "rules" have been years in the making).

Exhibits B, C, D and E (shown below) describe four alternate policies that address the concerns raised. However, some have serious implications for the entire program. The adopted ordinance will need minor to major revisions depending on Council direction and the fees may

need to be recalculated. These will be reviewed in more detail at the Council meeting.

ALTERNATE POLICY 1

For all land within the City that is zoned for development, the City is responsible for the service impacts of that development.

Pro

Fewer projects on which to calculate fees. (Fee would only apply to projects needing rezoning and not necessarily to lot splits or other approvals.)

Will promote "infill". (Those owners of property inside the City limits will have a financial advantage over newly annexed property.)

Con

Significant impact on fee calculations. (Acreage involved is approx. 7% of total)

Serious problem with equity of new fee program if not redone (fee could go up, down, or stay the same due to level of service definition and "existing deficiency" calculations), or City could pay the fee for those projects.

Contrary to past practices. (Sewer connection fee for example)

Would exempt vacant parcels within the City from existing Storm Drain Fee, also contrary to past practice.

Will be difficult to explain "who pays" and "who doesn't" to builders. (Project with proper zoning but filing a map doesn't pay, but one needing a rezoning pays.)

ALTERNATE POLICY 2

Service impacts of project utilizing developed "infill" land are the responsibility of the City. For purposes of this Policy, developed means the parcel:

- ° has been legally subdivided or created, and;
- ° has off-site improvements normally required as part of development, and;
- ° all the necessary approvals and permits to build except a building permit, lot line adjustment or parcel merger.

(definition will need "fine tuning")

Pro

Fewer projects on which to calculate fees, although more than Alternate Policy 1. (Fee would apply to projects needing rezoning, lot splits or other approvals. Some question on use permits, will need additional discussion).

Will promote "infill". (Those owners of developed property inside the City limits will have a financial advantage over newly developed property.)

Con

Less impact on fee calculations than Alternate Policy 1. (Acreage involved is between 4-1/2 and 7% of total.)

Possible problem with equity of new fee program if not redone (fee could go up, down, or stay the same due to level of service definition and "existing deficiency" calculations), or City could pay the fee for those projects.

Contrary to past practices. (Sewer connection fee for example)

Would exempt some vacant parcels within the City from existing Storm Drain Fee, also contrary to past practice.

May be difficult to explain "who pays" and "who doesn't" to builders. (Who pays depends on definition of "developed".)

ALTERNATE POLICY 3

Previous development projects that have received the appropriate approvals prior to obtaining a building permit as evidenced by payment of the then current development impact mitigation fee (Master Storm Drainage Fee) have the right to develop as approved without the imposition of new development impact mitigation fees.

Pro

Less impact on fee calculations than Alternate Policies 1 or 2. (Acreage involved is approx. 4-1/2% of total)

Will promote "infill". (Those owners of property inside the City limits which have paid SD fees will have a financial advantage over property that has not paid).

Con

Equity concern, possible legal challenge. (What does previous payment of Storm Drain Fee have to do with impact on Water, Police, etc?)

ALTERNATE POLICY 4

The most protection provided by State law (outside of a special development agreement) that a project can have from subsequent changes in zoning, development requirements or imposition of new fees is a "vesting" tentative map. That protection lasts for two years after map filing. Therefore parcels which have filed a final subdivision or parcel map and have received the appropriate approvals prior to obtaining a building permit as evidenced by payment of the then current development impact mitigation fee (Master Storm Drainage Fee) have the right to develop as approved without the imposition of new development impact mitigation fees for a period of two years. (In effect this grants "vesting" map status to these projects even though they did not ask for it.)

Pro

Negligible impact on fee calculations.

Could be implemented with minor change in ordinance, immediately if made an urgency ordinance.

Con

Some additional administrative effort to determine various dates.

Same equity concern as Alternate Policy 3 but to a much lesser extent.

Alternate Policy 3 describes the protection provided new development by a "vesting" map. This type of map was added to the City Code in 1986 as required by state law. Normally, and as was the case in Lodi, projects with an approved tentative map were protected from changes in development policies until the final map was filed. The vesting statutes fix and extend this protection for two years following final map filing. To obtain these rights, the developer must add the word "vesting" to the tentative map. Very few have done so.

Staff recommended that the ordinance be left as adopted.

The following persons addressed the City Council regarding the matter and indicated that they would prefer Alternate 3.

- a) Steve Pechin, 323 West Elm Street, Lodi, California;
- b) John Tetz, 815 West Tilden Drive, Lodi, California;
- c) John Giannoni, Jr., 1420 South Mills Avenue, Lodi, California; and
- d) Ben Schaffer, 207 River Oaks Drive, Lodi, California.

Following additional discussion with questions being directed to staff and those giving testimony, on motion of Mayor Hinchman, Pennino second, the City Council set a public hearing for October 16, 1991 at 7:30 p.m. to consider adopting as an urgency ordinance an amendment to Lodi's Development Fee Ordinance to modify the definition of projects subject to new development fees.

There being no other business to come before the City Council, the meeting was adjourned at approximately 8:45 p.m.

Attest:


Alice M. Reimche
City Clerk