

REPORT TO THE CITY COUNCIL



DATE: August 5, 2014

TITLE: Introduce an Ordinance for First Reading and Adopt a Resolution Regarding Mitigation Fee for New Development to Fund Multiple Species Habitat Conservation and Natural Community Conservation Plans

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Reviewed by: Steven B. Quintanilla, City Attorney

RECOMMENDATIONS:

- 1) Open the Public Hearing;
- 2) Take Testimony;
- 3) Close the Public Hearing; and
- 4) Introduce and approve for First Reading, an Ordinance Replacing Chapter 3.40 of the Municipal Code with a New Chapter 3.40 Regarding the Local Development Mitigation Fee Imposed on New Development to Fund the Multiple Species Habitat Conservation Plan/Natural Community Conservation Plan; and
- 5) Adopt a Resolution of the City Council Adopting a Fee Schedule for the Local Development Mitigation Fee Imposed on New Development to Fund the Multiple Species Habitat Conservation Plan/Natural Community Conservation Plan.

DISCUSSION:

On March 13, 2014, the City approved joining the Coachella Valley Multiple Species Habitat Conservation Plan ("MSHCP"). One of the actions the City must take to prepare for MSHCP implementation is to approve a Local Development Mitigation Fee ("LDMF") on new development within the plan area in order to meet the conservation goals set forth in the MSHCP. The City currently collects the LDMF in the I-10 Annexation Area. In order to collect the LDMF throughout the entire City, the City must repeal the current ordinance which applies only to the I-10 Annexation Area, and adopt essentially the same ordinance that applies to the entire City.

The LDMF imposed on new development projects is a primary source of funding for implementation of the MSHCP. The LDMF is a type of development impact fee governed by the Mitigation Fee Act (Gov. Code §§ 66000 *et seq.*). The legal and policy basis to support the adoption by local agencies in the Coachella Valley of the LDMF is provided in the Local Development Mitigation Fee Nexus Study, dated May 16, 2011, which was prepared by Willdan Financial Services for the Coachella Valley Conservation Commission. The Major Amendment was in progress when the Nexus Study was performed and anticipated the inclusion of the entire City of Desert Hot Springs. The Nexus Study calculated the LDMF based both the situation in May 2011 when Desert Hot Springs was not entirely in the MSHCP and the anticipated completion of the Major Amendment with the City entirely within the MSHCP. A copy of this report is included for your review.

The LDMF is necessary for completion of the Major Amendment to the MSHCP Permit because the Wildlife Agencies require that the Local Permittees identify sufficient funding for implementation of the MSHCP. New development affects the environment directly through construction activity and cumulatively through the activities of the population bases that result from development. Government Code Section 66000 et seq. allows cities and counties to charge new development for the costs of mitigating the impacts of new development. All new development projects on vacant or partially vacant lands regardless of location will have direct and cumulative impacts on species and existing or potential habitat and natural communities. New development also causes a need for and benefits from the installation of public infrastructure. Without new development, no further habitat conservation to mitigate for development impacts would be needed in the Plan Area. Therefore, there is a reasonable relationship between the need for habitat conservation and all types of residential and nonresidential development throughout the city.

The proposed LDMF would be \$5,308 per acre, with a per unit fee for residential development. The residential fee per unit for a density of 0-8 units per acre would be \$1,189. This is an 8% reduction of the fee in effect as of July 1, 2014 in the I-10 Annexation Area. The addition of the I-10 Annexation Area of the City to the MSHCP provides a larger base for funding and results in a reduction of 8% for all jurisdictions. The fee schedule is as follows:

Residential

<i>0 - 8 Units Density Per Acre</i>	<i>\$ 1,189 per unit</i>
<i>8.1 - 14 Units Density Per Acre</i>	<i>\$ 495 per unit</i>
<i>14.1+ Units Density Per Acre</i>	<i>\$ 219 per unit</i>

Nonresidential

<i>Commercial</i>	<i>\$ 5,308 per acre</i>
<i>Industrial</i>	<i>\$ 5,308 per acre</i>

The proposed fee schedule presented here represents a reasonable approach to the fair allocation of costs across all new development. The fee ordinance provides for an annual CPI adjustment based upon the Consumer Price Index for “All Urban Consumers” in the Los Angeles-Anaheim-Riverside Area, measured as of the month of December in the calendar year which ends in the previous Fiscal Year. CVCC will update the Nexus Study at least every five years, and more often if deemed necessary, to ensure that the Local Development Mitigation Fee is adequate over the life of the Permit to fund the implementation of the MSHCP.

The projected revenue from the LDMF is anticipated to account for 76% of the overall cost of the MSHCP to the Local Permittees. Other sources include but are not limited to landfill tipping fees, transportation project mitigation from the Coachella Valley Association of Governments (CVAG), Caltrans, and other agencies, and mitigation funds for regional infrastructure projects. To date, the largest single source of funding has been approximately \$19 million from CVAG.

FISCAL ANALYSIS:

Implementation of the MSHCP is designed to be self-funding and no other assessments are required of the City of Desert Hot Springs. The City is also allowed to retain 1% of the LDMF it collects as an administrative cost. The MSHCP overall is funded from the LDMF, tipping fees and infrastructure mitigation payments from CVAG, Coachella Valley Water District, Caltrans, Imperial Irrigation District, and Mission Springs Water District. The LDMF is collected by the City and keep 1% of the fee. The remainder is passed through to CVAG on a monthly basis.

EXHIBIT(S):

1. An Ordinance of the City Council of the City of Desert Hot Springs Replacing Chapter 3.40 Coachella Valley Multiple Species Habitat Conservation Plan Mitigation Fees of the Municipal Code with a New Chapter 3.40 Establishing the Local Development Mitigation Fee Imposed on New Development to Fund the Coachella Valley Multiple Species Habitat Conservation Plan/Natural Community Conservation Plan.
2. A Resolution of the City of Desert Hot Springs Adopting a Fee Schedule for the Local Development Mitigation Fee Imposed on New Development to Fund the Multiple Species Habitat Conservation Plan/Natural Community Conservation Plan.
3. A copy of the Local Development Mitigation Fee Nexus Study Report, dated May 16, 2011.