



REPORT TO COUNCIL City of Sacramento

915 I Street, Sacramento, CA 95814-2604
www.cityofsacramento.org

CONSENT
October 7, 2008

Honorable Mayor and
Members of the City Council

**Title: Ordinance Relating to the North Natomas Public Facility Fee within the
North Natomas Financing Plan Area [2/3 Vote Required]**

Location/Council District: Council District 1.

Recommendation: Adopt an Emergency **Ordinance** extending a “catch up” fee requirement for persons and entities that pay North Natomas Public Facility Fee prior to amendment of that fee by the council. The ordinance will expire in six months unless sooner renewed.

Contact: Mark Griffin, Fiscal Manager, 808-8788; Carol Shearly, Director, 808-5893

Presenter: Mark Griffin

Department: Planning Department

Division: Public Improvement Financing

Organization No.: 4915

Description/Analysis:

Issue: The North Natomas Financing Plan requires periodic updating to reflect changes in land uses and infrastructure costs and to set the appropriate fees. The 2008 update will be brought before the City Council in the near future, with the fee changes effective 60 days after approval. In the interim, a potentially significant increase in the Public Facilities Fee (the “PFF”) would not be collected unless the City Council enacts, as an emergency measure, an ordinance extending the catch-up fee requirement enacted by Ordinance No. 2008-017 on April 10, 2008. Without such extension, persons and entities that are issued building permits before the effective date of the PFF increase would be paying too little, thus imposing a greater PFF burden on those who develop later.

Landowners, developers, and residents have been working with staff on the 2008 update since December of last year and generally agree that an emergency measure is needed to require that all persons and entities that receive building

existing PFF **plus** any increase later approved by the council as a part of the 2008 update. The ordinance is an emergency measure requiring an affirmative vote by at least six members of the council, and it will expire six months after adoption unless renewed by council action.

The recommended action renews an identical action taken by Council on April 10, 2008 through Ordinance No. 2008-017.

Policy Considerations: Adoption of the ordinance is consistent with the 1994 Financing Plan and Nexus Study and as amended in 1999, 2002, and 2005 and identical to prior action taken by way of Ordinance 2008-017. The renewal ordinance is also consistent with the City’s Strategic Plan 3-Year Goal to “achieve sustainability and enhance livability.” Because this ordinance does not enact or increase a fee, no public hearing is needed.

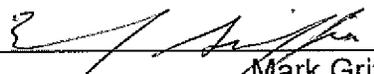
Environmental Considerations: Adoption of the ordinance is not a project for the purpose of the California Environmental Quality Act, as it concerns a government funding mechanism that does not involve any commitment to any specific project that may result in a potentially significant physical impact on the environment. (Cal. Code Regs., § 15378 [CEQA Guidelines].)

Committee/Commission: None

Rationale for Recommendation: The ordinance is designated as an emergency measure because a fee increase is imminent and because the catch-up requirement will eliminate inequity between PFF payers and preserve the city’s ability through the Finance Plan to fund infrastructure needed to preserve and protect the public health, safety, and welfare.

Financial Considerations: There is no impact to the general fund. The North Natomas Public Facility Fee (Fund 780) is paid by landowners and developers. Approval of the proposed ordinance will authorize the city to collect a catch-up increment of the PFF from all building permits issued between October 10, 2008, and the date the PFF increase is approved by the council, which is anticipated to be in late October 2008. Ordinance 2008-017 had the same effect between April 11, 2008 and October 10, 2008.

Emerging Small Business Development (ESBD): Council approval of this item is not affected by city policy related to the ESBD Program.

Respectfully Submitted by: 
Mark Griffin
Fiscal Manager, Planning Department

Approved by: 
Carol Shearly
Director, Planning Department

Recommendation Approved:

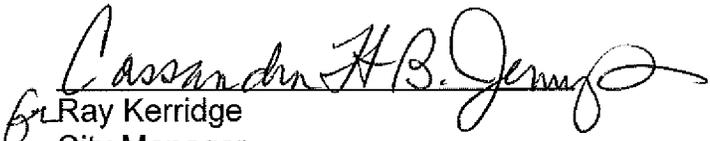

Ray Kerridge
City Manager

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BACKGROUND

The North Natomas Financing Plan and Nexus Study (collectively, the "Financing Plan") require periodic updating to reflect changes in land uses and infrastructure costs and to set the appropriate fees. Three previous updates were done in 1999, 2002, and 2005.

In anticipation of a 2008 update, North Natomas landowners, developers, and residents have been meeting with city staff and consultants since December 2007 to review and discuss proposed revisions. Significant issues have surfaced but are nearly resolved, with staff now anticipating bringing the 2008 update to the City Council in late October. In the interim, a potentially significant increase in the Public Facilities Fee (the "PFF") that was to be in place for this building season, and before the FEMA restrictions took effect, could not be collected unless the City Council enacted a catch-up fee requirement. Otherwise, persons and entities that are issued building permits before the PFF increase takes effect would be paying too little, thus imposing a greater PFF burden on those who develop later. Moreover, PFF revenues will be insufficient to fully fund infrastructure required to meet the critical needs of North Natomas residents and to preserve and protect the public's health, safety, and welfare.

Because of the impact of a delay in the PFF increase after the beginning of this building season, Council enacted Ordinance No. 2008-017 on April 10, 2008, establishing the requirement that the PFF that must be paid for a building permit is the amount of the PFF when the permit is issued **plus** any PFF increase adopted by the city council as a part of the 2008 update. This latter aspect is the "catch-up" provision. The ordinance proposed now extends this requirement for another 6 months.

The ordinance is designated as an emergency measure because building permits are now being issued, with a concomitant loss of the PFF increase. Moreover, landowners and developers know that a PFF increase is imminent and may apply for their building permits before the increase takes effect so as to avoid it, even though they don't plan to develop immediately. The catch-up provision will capture the PFF increase for permits issued before the increase takes effect, thereby eliminating inequity between early and late fee payers, removing the incentive to apply early for permits, and preserving the city's ability through the Financing Plan to fund needed infrastructure.

ORDINANCE NO.

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF _____

AN ORDINANCE REQUIRING PAYMENT OF ANY INCREASE IN THE NORTH NATOMAS PUBLIC FACILITY FEE FOLLOWING ISSUANCE OF A BUILDING PERMIT AND DECLARING THE ORDINANCE TO BE AN EMERGENCY MEASURE THAT TAKES EFFECT IMMEDIATELY

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

Section 1. Findings.

The North Natomas Financing Plan and Nexus Study (collectively, the "Financing Plan") require periodic updating to reflect changes in land uses and infrastructure costs and to set the appropriate fees. Changes in land uses and infrastructure costs since the 2005 update of the Financing Plan indicate the potential for a significant increase in the Public Facilities Fee (the "PFF"), which is paid when building permits are issued. This increase was to be presented to the city council earlier in 2008, so that it would take effect April 1, 2008, the beginning of the 2008 building season. But because of continuing discussions about the PFF increase between North Natomas stakeholders, city staff, and consultants, the City Council is not likely to act on the increase until late October 2008.

In response to the delay in implementing the 2008 update to the Financing Plan, on April 10, 2008, the City Council adopted Ordinance No. 2008-017 as an emergency measure, thereby implementing extraordinary requirements in recognition of specific problems caused by the delay. Ordinance No. 2008-017 recognized that the 2008 building season had begun and that landowners and developers had begun to apply for, and receive, building permits. In addition, landowners and developers have recognized that a PFF increase is imminent, so they have had incentive to apply for permits early, thereby avoiding the increase. Ordinance No. 2008-017 further recognized that if city council did not act, the delay in implementing the PFF increase would likely result in a potential shift of the PFF burden to future PFF payers (who will have to make up for revenues not collected from those who avoid the increase) and a reduction in revenue for needed infrastructure (with the potential loss to the city of \$250,000 to \$500,000 per month). Shifting the PFF burden to future payers is inequitable, and a reduction in PFF revenue will mean insufficient funds to construct infrastructure required to meet the needs of North Natomas residents and to protect public health, safety, and welfare.

Ordinance No. 2008-017 expires on October 10, 2008. For the reasons set forth

above, the requirement established by the ordinance must be extended until the City Council can act on the 2008 update of the Financing Plan.

Accordingly, the city council finds that facts recited in this section constitute an emergency and that this ordinance, which takes effect immediately, will alleviate the emergency by requiring persons and entities that receive building permits before the 2008 update of the Financing Plan is approved to pay the difference between the PFF actually paid when their building permits are issued and any PFF increase adopted by the city council as part of the 2008 update.

Section 2.

Effective October 10, 2008, each person or entity that receives a building permit within the Financing Plan area before amendment of the PFF as part of the 2008 update of the Financing Plan shall, as a condition of receiving the building permit, enter into an agreement, satisfactory to the city attorney's office, requiring that the person or entity pay the difference between the PFF paid when the building permit is issued and the PFF as thereafter amended.

Section 3.

This ordinance expires six months from its effective date unless the city council extends it by action before the end of the six-month period.

Section 4.

This ordinance is an emergency measure that becomes effective immediately upon its adoption. The facts constituting the emergency are set forth in section 1 above.

EFFECTIVE DATE:

MAYOR

ATTEST:

CITY CLERK