

Meeting Date: 2/9/2016

Report Type: Consent

Report ID: 2016-00069

Title: Natomas Basin Habitat Conservation Plan (HCP) Fee

Location: Natomas Basin, Districts 1, 3, and 4

Recommendation: Receive and file.

Contact: Arwen Wacht, Associate Planner, (916) 808-1964, Community Development Department

Presenter: None

Department: Community Development Dept

Division: Current Planning

Dept ID: 21001221

Attachments:

1-Description/Analysis

2-Background

3-TNBC Fee Reso Signed

4-TNBC 2016 Finance Model

City Attorney Review

Approved as to Form

Kourtney Burdick

1/29/2016 9:51:24 AM

Approvals/Acknowledgements

Department Director or Designee: Ryan Devore - 1/27/2016 12:51:43 PM

Description/Analysis

Issue Detail: The annual re-evaluation of the Natomas Basin Habitat Conservation Plan (NBHCP) Finance Model is required by § 3.2.6 and 4.9.2 of the Implementation Agreement, and is performed by the City's NBHCP Plan Operator, The Natomas Basin Conservancy (TNBC). On December 2, 2015, TNBC's Board of Directors recommended that the fee remain at its current level.

Policy Considerations: The 2003 NBHCP was approved by Council on May 13, 2003; the federal Incidental Take Permit (ITP) was issued by U.S. Fish and Wildlife Service on June 27, 2003, and the amended state ITP was issued by California Department of Fish and Game on July 10, 2003. On an annual basis, the City considers a fee adjustment in order to ensure adequacy of the funding to implement the 2003 NBHCP and comply with the ITP and the related Implementation Agreement.

Economic Impacts: None.

Environmental Considerations:

California Environmental Quality Act (CEQA): The City Council's previous action to approve the most recent fee adjustment was solely for the purpose of maintaining an adequate Habitat Conservation Plan (HCP) fee to be used to implement the HCP, and was therefore not a project for the purpose of CEQA. Previous environmental review has been conducted related to the North Natomas Community Plan, the 2003 Natomas Basin HCP, and the Comprehensive Drainage Plan, among others. The City Council is not taking any action at this time, therefore no environmental review is required at this time.

Sustainability Considerations: Periodic review and adjustment of the HCP fee is consistent with the Sustainability Master Plan – Section 7 – Parks, Open Space & Habitat Conservation, Goal 4: "Preserve prime farmland and critical habitat resources."

Commission/Committee Action: TNBC's Board of Directors on December 2, 2015, resolved that the current fee is adequate and appropriate and recommended that the City make no change to the NBHCP fee rate established by Resolution 2014-0034. The Board's adopted resolution is included as Attachment 3.

Rationale for Recommendation: The HCP fees are typically adjusted annually, prior to the commencement of the NBHCP's grading season (May 1). This year, the Natomas Basin Conservancy recommends no adjustment to the current fee. (See attachment 3 - the TNBC resolution to retain the NBHCP fee at its 2014 rate.)

Financial Considerations: Public and private developers of land in North and South Natomas currently pay a NBHCP fee of \$32,259 per gross acre. TNBC’s economic consultant - Economic & Planning Systems - completed an update of the NBHCP Finance Model based on actual costs as well as estimated costs (more specifically, land acquisition). Under the terms of the 2003 NBHCP Implementation Agreement between the City and the state and federal wildlife agencies, the City agreed to have its NBHCP “Plan Operator” (TNBC) update the NBHCP Finance Model each December for the life of the NBHCP. The NBHCP Fee revenue pays for the land acquisition, restoration and enhancement, administration and operations and maintenance, operations and maintenance endowment, and supplemental endowment funds associated with implementing the NBHCP and mitigating impacts of urban development on the species covered under the NBHCP. Based on the Finance Model update and the judgment of TNBC Board, the Council is being requested to retain the current fee rate. There is no obligation of the General Fund associated with the NBHCP fee.

	2012 Fee	2013 Fee	2014 Fee	2015 Fee	2016 Fee
Full Fee (no land dedication)	\$32,861	\$27,419	\$32,259	\$32,259	\$32,259
Fee with Land Dedication	\$21,611	\$18,669	\$21,009	\$21,009	\$21,009

Local Business Enterprise (LBE): Not applicable to this report.

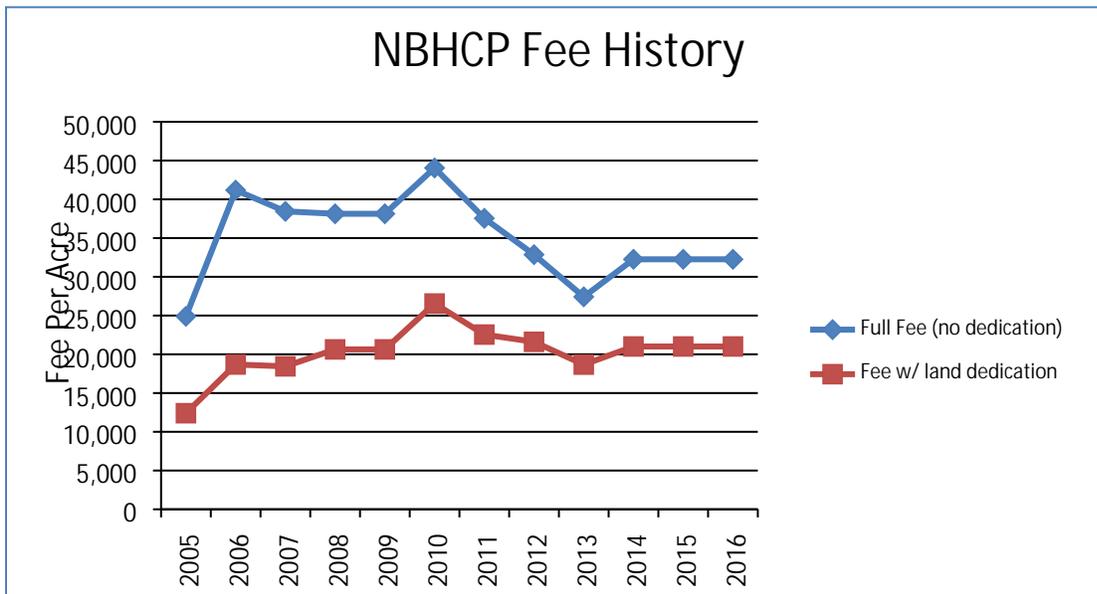
BACKGROUND

History of the NBHCP Fee

On August 7, 1997, the City Council added Chapter 84.10 to Title 84 (currently Chapter 18.40 of Title 18) of the City Code, which created and established the authority for the NBHCP fee to fund the costs of implementing the NBHCP (Ord. No. 97-046). Chapter 18.40 directs the City Council, by resolution, to set the amount of the fee. The chapter also contemplates the periodic revision of the fee by resolution of the Council.

The history of the NBHCP fee rate is shown in the graphics and table below. As shown, it increased dramatically following the approval of the 2003 NBHCP and the years immediately following. This increase was due to the enhanced mitigation necessitated by litigation and set forth in the 2003 revised NBHCP, as well as a spike in land prices. The fee has been relatively stable (and has actually declined) since 2006. The fee increased in 2014; the proposed 2016 fee would be unchanged from the 2014 and 2015 fee rate. Therefore, no Council action is required at this time.

Graphic – Fee History 2005 through 2016



History of NBHCP Fees

Date	HCP Fee / Gross Acre	Resolution No.
October 31, 1995	\$2,240 [Interim Fee]	95-060
September 2, 1997	\$2,656	97-508
August 17, 1999	\$3,292	99-473
September 12, 2000	\$3,942	2000-538
June 12, 2001	\$10,021* (incl. \$4,028 premium)	2001-391
May 21, 2002	\$11,962* (incl. \$4,028 premium)	2002-300
June 24, 2003	\$12,270	2003-460
April 20, 2004	\$16,124 (\$8,624 w/ land dedication)	2004-285
April 5, 2005	\$24,897 (\$12,397 w/ land dedication)	2005-223
May 4, 2006	\$41,182 (\$18,682 w/ land dedication)	2006-301
February 13, 2007	\$38,445 (\$18,445 w/ land dedication)	2007-092
February 19, 2008	\$38,133 (\$20,633 w/ land dedication)	2008-097
February 17, 2009	\$38,133 (\$20,633 w/ land dedication)	N/A
March 9, 2010	\$44,050 (\$26,550 w/ land dedication)	2010-127
March 22, 2011	\$37,547 (\$22,547 w/ land dedication)	2011-157
February 21, 2012	\$32,861 (\$21,611 w/ land dedication)	2012-037
January 29, 2013	\$27,419 (\$18,669 w/ land dedication)	2013-027
February 4, 2014	\$32,259 (\$21,009 w/ land dedication)	2014-0034
January 13, 2015	\$32,259 (\$21,009 w/ land dedication)	N/A
February 9, 2016	\$32,259 (\$21,009 w/ land dedication)	N/A, Motion

* In 2001, the Council increased the fee to \$10,021 per gross acre to implement the 1997 NBHCP and the Settlement Agreement. The fee included a base fee of \$5,993 per gross acre and a premium fee of \$4,028 per gross acre to acquire reserve lands in prioritized areas of the Basin in order to comply with the agreement. In 2002, the Council increased the fee to \$11,962 per gross acre – a base fee of \$7,934 and a premium fee of \$4,028 for the agreement.

The NBHCP Fee is made up of five major parts:

- 1) Land Acquisition,
- 2) Restoration and Enhancement,
- 3) Administration and Operation and Maintenance (O+M),
- 4) O+M Endowment, and
- 5) Supplemental Endowment.

The fifth component – the Supplemental Endowment -- was added (at the request of the City) in June 2001 to provide assurances that the last 200 acres of required mitigation land will be purchased after all the fee revenue has been collected. The Supplemental Endowment may also be used for unforeseen circumstances expenses.

Unlike the Supplemental Endowment part of the fee, the O+M Endowment Fund is used to maintain the preserve lands in perpetuity after build-out of the plan area and all development fee revenue has been collected.

A small sixth fund is allocated to the City for fee collection (2% of the fee).

Compared to the 2014 fee, the NBHCP Finance Model for 2016 identified several following factors at play:

- The cost of land acquisition is anticipated to hold stable at \$22,500 per acre:
 - The land cost as proposed by Conservancy staff is supported by real estate analysis by Stephen Harrington, MAI; and
 - Overall, land prices have decreased from a high of \$35,000 per acre in the 2010 model to \$22,500 for 2014 through 2016.
- Fee components not affected by land prices could decrease due to the following factors:
 - Decrease in operating costs;
 - Improved general cost controls; and
 - Higher revenues from agricultural land rents.
- However, uncertainty in land prices, land rents, and the costs of water supply suggested a more cautious set of assumptions is appropriate.

The Conservancy is obligated to submit a fee recommendation each year that ensures its ability to successfully implement the NBHCP. A copy of the full fee study (dated November 25, 2015) is available for review at the City Planning Office, 300 Richards Blvd., 3rd Floor, Sacramento, CA 95811, as an attachment to this report, and on the Conservancy's website: <http://www.natomasbasin.org/wp-content/uploads/2015/11/NBCHP-2016-finance-model.pdf>

Land Dedication Requirement

Since 2003, all large mitigation efforts have been accomplished through land dedication by the developers to TNBC, as opposed to payment of the Land Acquisition portion of the NBHCP fee. In April 2005, the City Council voted to require developers of 50+ acres to dedicate land in lieu of fee payment – unless the Conservancy deemed it had adequate surplus land such that accepting fees over dedication was helpful to the NBHCP's implementation. On May 4, 2006, the City Council extended this provision to May 1, 2007. On February 13, 2007, the City Council extended the land dedication in-lieu requirement without a sunset date. No change in this requirement is proposed in this report.

Limitations on Development in Natomas

The Natomas Basin was previously impacted by the Federal Emergency Management Agency's remapping of Natomas into an AE Flood Zone, which effectively precluded new development until such time that the levees meet 100-year flood protection standards or A99 designation. As of June 16, 2015, the City has obtained a new flood insurance map to provide Natomas with an A99 flood zone designation. On March 31, 2015, the City approved an ordinance amending Chapter 15.104 of the Sacramento City Code relating to floodplain management regulations to provide for limited resumption of

residential development in the Natomas area (Ordinance 2015-0006). Since the remapping, the first phases of development took place in areas that were previously graded and limited residential and commercial development has taken place in the Natomas area.

**ADOPTED BY THE BOARD OF DIRECTORS OF
THE NATOMAS BASIN CONSERVANCY,
A CALIFORNIA NON-PROFIT PUBLIC BENEFIT CORPORATION,
ON DECEMBER 2, 2015**

**A RESOLUTION RECOMMENDING THE 2016 NATOMAS BASIN HABITAT
CONSERVATION PLAN FEE TO THE CITY OF SACRAMENTO**

WHEREAS, the Conservancy is charged with implementing the Natomas Basin Habitat Conservancy Plan (NBHCP), and

WHEREAS, in order to accomplish its mission the Conservancy receives fees paid to it which are normally collected by the City of Sacramento (City), and these fees are in turn conveyed to the Conservancy, and

WHEREAS, as required by the NBHCP, each year the Conservancy evaluates the costs associated with implementation of the NBHCP and determines if the fees are adequate, and

WHEREAS, as required by the NBHCP, each year the Conservancy has re-run the NBHCP Finance Model that has been used to evaluate the adequacy of funds necessary to implement the NBHCP, and

WHEREAS, when the fee is deemed in need of adjustment to permit continued successful implementation of the NBHCP, the Conservancy has recommended to the City a fee amount indicated by the NBHCP Finance Model recalculation so that the City can meet its obligations under the terms of the Implementation Agreement between the City and the State of California and the U.S. Government, and

WHEREAS, in order to accurately finance the NBHCP's implementation given current levels of income and expense, the Conservancy believes that the current fee should be maintained, and no increase or decrease is recommended.

NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE BOARD OF DIRECTORS OF THE NATOMAS BASIN CONSERVANCY THAT,

1. The Conservancy believes that the current NBHCP fee of \$32,259 per developed acre ("base fee") is adequate and appropriate.
2. The Conservancy believes that the current NBHCP fee of \$21,009 per developed acre with satisfactory land dedication is appropriate for land dedication fee payers.
3. The Conservancy recommends that the City of Sacramento make no change to the NBHCP fee it established by ordinance for 2016.

PASSED AND ADOPTED as of the 2nd day of December 2015.

ATTEST:



David Christophel, Secretary



date