



RESOLUTION NO. 2009-173

A RESOLUTION OF THE COUNCIL OF THE CITY OF FRESNO, CALIFORNIA, ADOPTING A POLICY TO PROVIDE CERTAIN FEE WAIVERS FROM CITYWIDE IMPACT FEES FOR FINAL MAPS PURSUANT TO THE RECOMMENDATIONS OF THE ECONOMIC STIMULUS COMMITTEE

WHEREAS, the City desires to preserve and create jobs to the greatest extent possible and furthermore desires to develop an economic stimulus package for new development; and,

WHEREAS, in January 2009, Mayor Swearingin formed an Economic Stimulus Committee composed of the Mayor, Council President Sterling, Councilmembers Xiong and Borgeas, and members of the local business community, to respond to the current challenging economic climate and,

WHEREAS, the Economic Stimulus Committee ("Committee") provided a Report to the City Council on March 17, 2009 (Attachment "A"); and,

WHEREAS, the Committee included participation from three distinct groups of business community stakeholders, namely (1) local residential developers and the Building Industry Association, (2) local commercial and industrial developers and (3) local small business owners; and,

WHEREAS, the Committee sought to determine through a review of various City policies and requirements, including City impact fees, what the City could do to assist the local business community in working through the current economic challenges; and,

WHEREAS, on September 27, 2005, the Council adopted a new Quimby Act Parkland Dedication Fee, a new Citywide Parks Facilities Impact Fee and a new Citywide Fire Facilities Impact Fee (hereinafter collectively referred to as "Citywide Park and Fire Fees"); and,

WHEREAS, prior to September 27, 2005, new development was subject to Urban Growth Management (UGM) fees pertaining to fire stations and neighborhood parks specifically for the UGM

Adopted 7/30/09
Approved 8/3/09
Effective 8/3/09

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areas, known as UGM Fire Station Capital Fees and UGM Park Fees (hereinafter collectively referred to as "UGM Fees"); and,

WHEREAS, certain Vesting Tentative Tract Maps were filed and the applications deemed complete prior to the City's adoption of the Citywide Park and Fire Fees, and were thus conditioned to pay the UGM Fees and obtained vesting rights against the requirement to pay Citywide Park and Fire Fees; and,

WHEREAS, certain developers with approved Vesting Tentative Tract Maps that were vested against the Citywide Park and Fire Fees and conditioned on payment of UGM Fees recorded vesting final maps which allowed for building permits to be pulled, homes to be constructed, and lots to be sold; and,

WHEREAS, as a general matter, vesting final maps lose their vesting protections from new fees two years after the final map is recorded; and,

WHEREAS, due to the economic downturn, many of the lots subdivided under vesting final maps that were conditioned on payment of UGM Fees that were vested against Citywide Park and Fire Fees are not being developed within two years of the recording of the final map and therefore, are losing their vesting protections and subjecting their development to Citywide Park and Fire Fees; and,

WHEREAS, there are approximately 970 lots in the City that were subdivided under final maps with expired vesting rights for which building permits have not been issued and where the UGM Fees were paid in full for those lots prior to the expiration of vesting rights; and,

WHEREAS, the Committee recommends that a developer should not be required to pay any new development impact fees or development fee increases (with the exception of the Regional Transportation Mitigation Fee) to pull a building permit to develop any lot subdivided under a final map



with expired vesting rights where UGM Fees were paid for the lot prior to expiration of the vesting rights, provided the building permit is issued prior to December 31, 2009; and,

WHEREAS, the Committee recommends that the above exemption be extended beyond December 31, 2009, until such time (referred to herein as a "strike point") when new home sales in the City of Fresno reach \$45,000,000 per month, based on a six month rolling average, and that the exemption will cease 60 days after that new home sales strike point is reached.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Fresno as follows:

1. The requirement to pay Citywide Park and Fire Fees is waived until the later of December 31, 2009 or 60 days following the date when the "strike point" (as defined above) is reached, for any residential lot that meets all of the following criteria:

- (i) The lot was subdivided under a final map that is within the UGM area.
- (ii) The lot was subdivided under a vesting tentative map that was conditioned on payment of UGM fees and not the Citywide Park and Fire Fees.
- (iii) The developer paid the UGM Fees for that lot prior to the loss of vesting rights for the final map and the end date of this waiver.
- (iv) The certificate of occupancy has been issued prior to the end date of this waiver.

2. To determine when the "strike point" has been reached and the waiver terminated and interested parties are notified, the Council authorizes and directs the Public Works Director to utilize objective data from an outside reliable source for the number of new home closings and the average new home sales price in the City of Fresno for each month, and to calculate the monthly new home sales based on the product of the number of new home sales and the average price; to maintain a calculation of a 6-month rolling average of the monthly new home sales volume; to publish this data on the City of



Fresno Public Works web page such that is readily accessible to interested parties; and to provide notification on the web page when the "strike point" has been reached and when the effective end date of the waiver provided in this resolution.

CLERK'S CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF FRESNO)
CITY OF FRESNO)

I, REBECCA E. KLISCH, City Clerk of the City of Fresno, certify that the foregoing resolution was adopted by the Council of the City of Fresno, California, at a regular meeting thereof, held on the 30th day of July, 2009.

AYES: Borgeas, Dages, Perea, Westerlund, Xiong, Sterling
NOES: None
ABSENT: None
ABSTAIN: None
RECUSED: Brand

Mayor Approval: August 3, 2009
Mayor Approval/No Return: N/A, 2009
Mayor Veto: N/A, 2009
Council Override Veto: N/A, 2009

REBECCA E. KLISCH
City Clerk

By Rebecca Klisch

APPROVED AS TO FORM:

JAMES C. SANCHEZ
City Attorney

By [Signature]
Kathryn C. Phelan, Senior Deputy

Date: 7/23/09

July 30, 2009

TO: MAYOR ASHLEY SWEARENGIN
FROM: REBECCA E. KLISCH, CMC
City Clerk

REK

RECEIVED
2009 AUG -3 PM 2:55
CITY CLERK, FRESNO CA
Council Adoption: 7/30/09
Mayor Approval:
Mayor Veto:
Override Request:



SUBJECT: TRANSMITTAL OF COUNCIL ACTION FOR APPROVAL OR VETO

At the Council meeting of 7/30/09, Council adopted the attached Resolution No. 2009-173 entitled **Adopting policy to provide certain fee waivers from Citywide impact fees for final maps**, Item No. 10:00 a.m. #1-A, by the following vote:

Ayes : Borgeas, Dages, Perea, Westerlund, Xiong, Sterling
Noes : None
Absent : None
Abstain : Brand

Please indicate either your formal approval or veto by completing the following sections and executing and dating your action. Please file the completed memo with the Clerk's office on or before August 10, 2009. In computing the ten day period required by Charter, the first day has been excluded and the tenth day has been included unless the 10th day is a Saturday, Sunday, or holiday, in which case it has also been excluded. Failure to file this memo with the Clerk's office within the required time limit shall constitute approval of the ordinance, resolution or action, and it shall take effect without the Mayor's signed approval.

Thank you.

APPROVED:

VETOED for the following reasons: (Written objections are required by Charter; attach additional sheets if necessary.)

Ashley Swearengin
Ashley Swearengin, Mayor

Date: 8-3-09

COUNCIL OVERRIDE ACTION:

Date: _____

Ayes :
Noes :
Absent :
Abstain :