



**DATE:** July 7, 2020

**TO:** Mayor and City Council

**FROM:** Director of Development Services

**SUBJECT:** Adopt a Resolution Approving Report and Assessment for Community Preservation Fees Past Due

### **RECOMMENDATION**

That Council adopts a resolution (Attachment II) confirming the report and assessment for overdue community preservation charges (Attachment III) for the period from January 1, 2019 through May 4, 2020 and authorizing the assessments to become a special assessment against the properties if not paid on or before August 1, 2020.

### **SUMMARY**

The purpose of the Special Assessment confirmation is to consider the proposed report and assessment list for unpaid Community Preservation fees and to determine whether a special assessment should be placed on these properties.

Due to COVID-19, staff has been made aware that some processes have been deferred as a result of the pandemic. This has delayed the City's ability to identify all completed payments associated with listed assessments. Staff will be conducting an additional review of all payments prior to the official assessment date, to assure any payments received prior to this date are recorded and that property is removed from the assessment list, if appropriate.

### **BACKGROUND**

Article 7, Chapter 5 of the Hayward Municipal Code (HMC), otherwise known as the Community Preservation Ordinance, currently makes it unlawful for Hayward property owners to allow the condition of their property to deteriorate to the point that it becomes detrimental to the public health, safety, or general welfare of the community. This includes both inhabited properties and vacant properties, whether residential or commercial. Typical violations include debris, trash, vegetation, graffiti, signs, zoning issues, and abandoned and/or inoperable vehicles.

"Public nuisance" is defined in the Ordinance, as are the procedures for enforcing the Ordinance. The Ordinance provides due process protections that guarantee the property owners who are cited for violations of the Ordinance, notice, and the opportunity to be heard.

Once a violation of the Ordinance has been established at a particular property and all appropriate notifications have been made, fines, fees, penalties and/or abatement of the violation can and will be imposed. Consequently, once the property owner has exhausted his or her administrative remedies, the property owner must then pay any and all costs related to his/her property violations in the appropriate timeframe set forth in the Ordinance. If those costs are not paid in full prior to the July deadline each year, the unpaid charges are then scheduled for special assessment against the property once confirmed and authorized by Council resolution.

## **DISCUSSION**

The costs that make up the special assessment charges were calculated pursuant to the City's Master Fee Schedule. Fines and fees include: failed re-inspection(s) fees; abatement related costs; contractor fees; subsequent violation(s); liens; and past due fees.

As of the date of this writing, there are overdue bills (including contractor costs) affecting 64 properties amounting to \$368,196.54. The accounts receivable list is attached as Attachment III.

The unpaid charges, plus any administrative costs of the City and County, will become a special assessment against the property and will appear on the property owners' November tax bills. Notices sent by mail, with proof of service, were mailed to each property owner, and tenant if applicable, in accordance with the Ordinance. Property owners were given an opportunity for an Administrative Hearing to dispute the factual findings and/or assessment of fees. Two Administrative and/or Special Assessment Hearings were requested and conducted for the period from January 1, 2019 through May 4, 2020. As of the writing of this report, no requests have been recently filed. Additionally, after three past due invoices were mailed to the property owners, a Final Notice was sent by certified mail on May 22, 2020 advising the property owners of the impending assessment against their property pursuant to Government Code Section 38773.5.

## **ECONOMIC IMPACT**

The collection of un-paid fees supports the community preservation program in ensuring well maintained, safe and sanitary neighborhoods and properties.

## **STRATEGIC ROADMAP**

This agenda item supports the Strategic Priority of Support Quality of Life Initiative. Specifically, this item relates to the implementation of the following project(s):

*Project 10: Implement a strategy to compel Union Pacific to Clean up their unsafe and blighted properties, mitigate public safety risk, and reduce ineffective use of staff resources.*

## **FISCAL IMPACT**

There is no fiscal impact to the City of Hayward associated with processing such overdue bills, as City costs are reimbursed through special assessment or other collection processes. All special assessment costs are collected along with lien amounts on individual tax bills. Collection of these fees also helps minimize the General Fund subsidy to this program and reduces unrecoverable costs of conducting inspections associated with the City's Community Preservation Program because they represent fees assessed for staff time related to enforcement actions. The City of Hayward annually receives two special assessment payments from the County, one in December and one in April.

## **SUSTAINABILITY FEATURES**

The recommended action for this report will not directly result in physical development; the purchase of a product or service; new policy or legislation related to sustainability.

## **PUBLIC CONTACT**

Notice of City Council's confirmation of this report was published in the Daily Review on June 26 , & July 3 , 2020. In addition, all first invoices include specific language giving the property owner an opportunity for a Special Assessment Hearing to contest the fees and/or penalties and encouraging them to pay their bills to minimize additional fees and to avoid being placed on the proposed assessment list. As mentioned above, staff conducted thirteen administrative hearings regarding community preservation assessments. Property owners have until August 1, 2020 to pay all outstanding fees.

## **NEXT STEPS**

A copy of the Special Assessment List will be forwarded by the City of Hayward's Revenue Division to the Alameda County Assessor's Office. Upon receipt, the Assessor's Office will attach the City of Hayward's fees past due as a special assessment against each parcel. That assessment will then appear on the property owners' November 2020 property tax bill for collection. When the County Assessor receives the tax payment, the City of Hayward will be reimbursed by the Assessor's Office typically after payment of the second installment in April of the following year.

*Prepared by:* Phillip Nichols, Code Enforcement Manager

*Recommended by:* Laura Simpson, Director of Development Services

*Approved by:*



---

Kelly McAdoo, City Manager