



DATE: October 25, 2016

TO: Mayor and City Council

FROM: Acting Director of Finance

SUBJECT Adoption of the City of Hayward User Fee Study

RECOMMENDATION

That Council adopts the attached resolution presenting the user fees as calculated in the City's User Fee Study completed by Willdan Financial Services.

SUMMARY

Staff recently completed a comprehensive study of all of the City's User Fees; the study was conducted by Willdan Financial Services. The User Fee Study (the study) has calculated costs associated with all user fees and is presenting those amounts as the proposed fees to be charged by the City as of January 1, 2017. The proposed fees shown in the study have been calculated at a level, unless noted otherwise, to allow the City to achieve full cost recovery, and no more.

BACKGROUND

The last comprehensive user fee study was completed in July 2008. Over the last eight years (FY 2009 – FY 2016), the City has undergone minor adjustments and modifications to the fee schedule (mostly cost of living adjustments and modifications to support Council policies) as part of the annual budget process. Given the changes to the City's structure, staffing levels, and the cost of operations since 2008, the study recently undertaken is more comprehensive and will provide updates to user fees throughout the City. The study has assisted in making appropriate changes to some of the methodology behind calculating user fees.

As part of a general cost recovery strategy, local governments have adopted user fees to fund programs and services that provide limited or no direct benefit to the community as a whole. As the City struggles to balance levels of service and the variability of demand, Council has become increasingly aware of subsidies provided by the General Fund for fees which do not recover full costs. To the extent that the City uses general tax monies to provide services that it has the ability to recover full cost for, but does not, a subsidy is provided and this reduces funds that may be available to provide other community-wide benefits. Unlike most revenue sources, the City has more control over the level of user fees charged to recover costs.

Legislative Requirements

Before the voters' adoption of Proposition 13 (1978), California cities were less concerned with potential subsidies and recovering the cost of their services from individual fee payers. In times of fiscal shortages, cities simply raised property taxes, which funded everything from police and recreation to development-related services. However, this situation changed with the enactment of Proposition 13, which imposed severe constraints on the ability to increase property taxes. In 1979, with the enactment of Proposition 4, voters further constrained the ability of local government to cover the costs of doing business by strictly defining the difference between a fee and a tax: a fee can be no greater than the cost of providing the service. Propositions 218 (1996) and 26 (2010) imposed more restrictive definitions of fees and taxes, to the extent fees are presumed to be taxes unless they fall into certain categories now set forth in the California Constitution. Subsequent to enactment of Proposition 26, the City Attorney has conducted a review of all new or increased fees, in addition to an on-going review of existing fees, to assure state constitutional compliance.

DISCUSSION

Goals of the study

The principal goal of the study was to help the City determine the full cost of the services that the City provides. Also, Willdan established a series of additional objectives including:

- Developing a rational basis for setting fees
- Identifying subsidy amount, if applicable, of each fee in the model
- Enhancing fairness and equity
- Ensuring compliance with State law
- Developing a comprehensive list of fees that is easy to update
- Maintaining fees in accordance with City policies and goals

The study results will help the City better understand its true costs of providing services and may serve as a basis for making better informed policy decisions regarding the most appropriate fees, if any, to collect from individuals and organizations that require individualized services from the City.

Methodology

The basic concept of a User Fee Study is to determine the "reasonable cost" of each service provided by the City for which it charges a user fee. The full cost of providing a service may not necessarily become the City's fee, but it serves as the objective basis as to the maximum amount that may be collected. The standard fee limitation established in California law for property-related (non-discretionary) fees is the "estimated, reasonable cost" principle. In order to maintain compliance with the letter and spirit of this standard, every component of the fee study process included a related review. The use of budget figures, time estimates, and improvement valuation clearly indicates reliance upon estimates for some data.

Fully Burdened Hourly Rates

The total cost of each service included in the study are primarily based on Fully Burdened Hourly Rates (FBHRs). FBHRs were determined for City personnel directly involved in providing services. The FBHRs include not only personnel salary and benefits, but also any costs that are reasonably ascribable to personnel. The cost elements that are included in the calculation of fully burdened rates are:

- Salaries & benefits of personnel involved
- Operating costs applicable to fee operations
- Departmental support, supervision, and administration overhead
- Internal Service Costs charged to each department
- Indirect City-wide overhead costs calculated through the Cost Allocation Plan

Changes to calculation methodology and fee structure

The Study shows changes to current and new fees. Most changes are based on the effort and costs associated with said fees. Two notable differences, however, are those related to the methodology used to calculate Development Services Department's Building Division fees related to new tract homes and subdivisions and the augmentation of the Residential Rental Inspection Program Fee Schedule.

Development Services Department's Building Division (section begins on page 60 of Attachment III)

The 2008 fee study completed by Maximus created a very complex and difficult to follow fee model for Building Permits and Fees. The City has moved away from the methodology and has used the valuation method for all Building Permits and Fees aside from fees for new single-family and multi-family homes.

The Willdan fee study proposes to assess all building permit fees based on the valuation method, which is fairly standard throughout the construction industry. Fees using the valuation method consider the following factors to determine the value of a property*:

- Valuation is defined as the fair market value of materials and labor for the work.
- Valuation shall be the higher of the stated valuation or the figure from the current International Code Council valuation.
- The current ICC Valuation data used in the study is adjusted with a regional construction cost modifier for the San Francisco Bay Area of 16%^.

^Source: The local modifier is 1.16 times the cost per square foot as published in the Building Standards Journal, April 2002 edition.

- The valuation for tenant improvements, residential remodels or other projects that do not involve new square footage, shall be a minimum of 60% of the cost per square foot (as shown in the table on page 60 of the study).

*For discussion purposes, the term property includes all new buildings, additions, tenant improvements, residential remodels and cell sites.

A similar method is currently being used by the cities of Berkeley, San Jose, Oakland, the City and County of San Francisco and many more.

Below is a demonstration of the current fees for a new single family residence using methodology from the Maximus study:

Current Fee Schedule Based on Square Footage (Maximus)

Project type: New Single-Family Detached Home

Valuation: N/A since fees are based on square footage

Habitable square footage (R-3 code designation): 3,000 square feet

Non habitable / garage square footage (U code designation): 400

Plan Check Fee: \$6,043

Inspection Fee: \$1,188

The table below shows what the fee for that same single family residence using the valuation method as proposed in the study as shown in Attachment II.

New Fee Schedule Based on Valuation (Willdan)

Project type: New Single-Family Detached Home

Valuation: \$412,748 (based on minimum valuation per square foot in new fee schedule).

Habitable square footage (R-3 code designation): 3,000 square feet

Non habitable / garage square footage (U code designation): 400 square feet

Plan Check Fee: \$3,476

Inspection Fee: \$3,476

Residential Rental Inspection Program

The City of Hayward currently has 22,974 rental units located on 8,030 parcels. The residential rental inspection program was initiated in February of 1989 to assure California's mandate to maintain minimum housing standards could be accomplished by the City for its residents. The City has never achieved full cost recovery for the efforts and is currently well below the fee level of many comparable cities. The current proposal is designed to recover costs and assist in maintaining and improving the conditions of residential rentals in the City which will achieve many of the goals supported by Council. The proposed fees for the Residential Rental Program are demonstrated in the Development Services section of Attachment III.

Changes to fees since October 18, 2016 City Council meeting

At the October 18, 2016 City Council meeting, the study was presented to City Council for feedback. Below is a summary of the changes to the study based in part on recommendations made by Council at the meeting. All page numbers below in parenthesis refer to pages in Attachment III.

- The following fees have been removed because they are not “User Fees”
 - Smoking Ordinance Fees (Page 31): This fee is set by ordinance, not effort based.
 - Tobacco Ordinance Fees (Page 31): This fee is set by ordinance, fee not effort based.
 - Operating Permit Card Club Permit- Annual Table Fee (Page 33): This fee is set by ordinance, not effort based.
 - Operating Permit Card Club Permit- Tobacco Retailer License (Page 33): This fee is set by ordinance, not effort based.
- Planning- Sign Permits- Portable/A-Frame Sign (Page 35): fee reduced to \$50 based on Council feedback.
- Planning- Sign Permits- Mural Art Signs (Page 35): fee reduced to \$50 based on Council feedback.
- Planning Fees – All fees under title “Review of Building Permit Applications” & “Inspections – Planning & Landscape” (Page 36) have been removed as they are now captured in the Building & Permitting valuation method model as presented in the Development Services Department’s Building Division section of Attachment III (begins on page 60 of the study).
- Percent change information presented for Finance (Page 33) and Technology Services (page 50) sections
- New Construction Permits and Fees (Page 46) has been removed from the Fire Prevention section as they are now captured in the Development Services Department’s Building Division section of Attachment III (begins on page 60 of the study)
- Street Maintenance – Cart Retrieval Fee (Page 52) has been removed as it is considered obsolete
- Utilities & Environmental Services section (Pages 57 & 58) now includes the proposed year 2 of the planned two-year phase in of fees to allow for full cost recovery for most fees by year 2. This was described briefly by staff at the October 18th meeting.
- Building Inspection Fee - Community Planning Fee of 16% has been removed from page 62 of the Development Services Department’s Building Division section of Attachment III. This fee and analysis will be brought back to Council for review and approval at a later date.

ECONOMIC IMPACT

The overall economic impact is currently unknown. Although approving the proposed fee levels will have a minor economic impact on the community, in that only certain fees will be increased, others will be decreased.

FISCAL IMPACT

Adopting these fee changes will not materially impact overall City revenues; however, it will allow for more self-sufficient and sustainable service levels in many areas of the City. The fees will also help the City recover the costs of doing business from those who are requesting specific services, thus freeing up General Fund resources for other community-wide services.

PUBLIC CONTACT

On September 12th, representatives from the Development Services Department presented proposed changes to the Residential Rental Inspection Program to the Rental Housing Association of Southern Alameda County. On September 28, 2016, a draft of the study was presented to the Council Budget and Finance Committee. On October 18th, City Council was presented with the study for review and feedback at the regularly scheduled City Council meeting. Public notice appeared in the Daily Review on October 14th and 21st. The study was also made available to the public for review beginning on Friday, October 14 in the City Clerk's Office, as well as at the Main and Weekes Library Branches.

NEXT STEPS

Once approved and adopted, the fees will take effect January 1, 2017.

Prepared by and Recommended by: Dustin Claussen, Acting Director of Finance

Approved by:

A handwritten signature in black ink, appearing to read 'K. McAdoo', is written over a horizontal line.

Kelly McAdoo, City Manager