

City of Sacramento

Legislation Text

File #: 2019-00208, **Version:** 1

Title:
Natomas Basin Habitat Conservation Plan (HCP) Fee

File ID: 2019-00208

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

Recommendation:
Receive and file.

Contact: Cheryle Hodge, Principal Planner, (916) 808-5971, Community Development Department

Presenter: None

Attachments:
1-Description/Analysis
2-TNBC Board of Directors HCP Fee Resolution
3-TNBC NBHCP 2019 Finance Model

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 5, 2018, TNBC's Board of Directors recommended that the City of Sacramento make no change to the NBHCP fee it established by ordinance in 2018.

Policy Considerations: The 2003 NBHCP was approved by City 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 to ensure adequacy of the funding to implement the 2003 NBHCP and comply with the ITP and the related Implementation Agreement.

Economic Impacts: Not applicable.

Environmental Considerations:

California Environmental Quality Act (CEQA): The City Council's action in approving this resolution is solely for the purpose of establishing an adequate Habitat Conservation Plan (HCP) fee to be used to implement the HCP, and is therefore not a project for the purpose of the CEQA pursuant to Guidelines section 15378. Previous environmental review has been conducted related to the North Natomas Community Plan, the 2003 NBHCP, and the Comprehensive Drainage Plan, among others.

Sustainability: 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 Board of Directors reviewed the proposed fees on December 5, 2018 and recommended that no changes be made to the NBHCP fee. Their adopted resolution is included as Attachment 2.

Rationale for Recommendation: The HCP fees are adjusted annually, prior to the commencement of the grading season (May 1). TNBC recommends no adjustment to the current fee. (See Attachment 2 - TNBC's resolution to retain the HCP fee at its 2018 rate.)

Financial Considerations: Developers of land covered by the NBHCP within North and South Natomas currently pay an HCP fee of \$33,091 per gross acre of development (\$21,841 per acre with land dedication). TNBC's economic consultant - Economic & Planning Systems (EPS) - completed an update of the HCP Finance Model based on actual costs, as well as estimated costs, that indicates whether there is a need to adjust fees in order to successfully implement the HCP. 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 HCP Finance Model each February for the life of the HCP. The HCP 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 HCP 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 City Council is being requested to retain the current fee rate. There is no obligation of the General Fund associated with this requested fee adjustment.

	2016 Fee	2017 Fee	2018 Fee	2019 Fee
Full Fee (No Land Dedication)	\$32,259	\$31,600	\$33,091	\$33,091
Fee with (Land Dedication)	\$21,009	\$20,350	\$21,841	\$21,841

Local Business Enterprise (LBE): Not applicable.

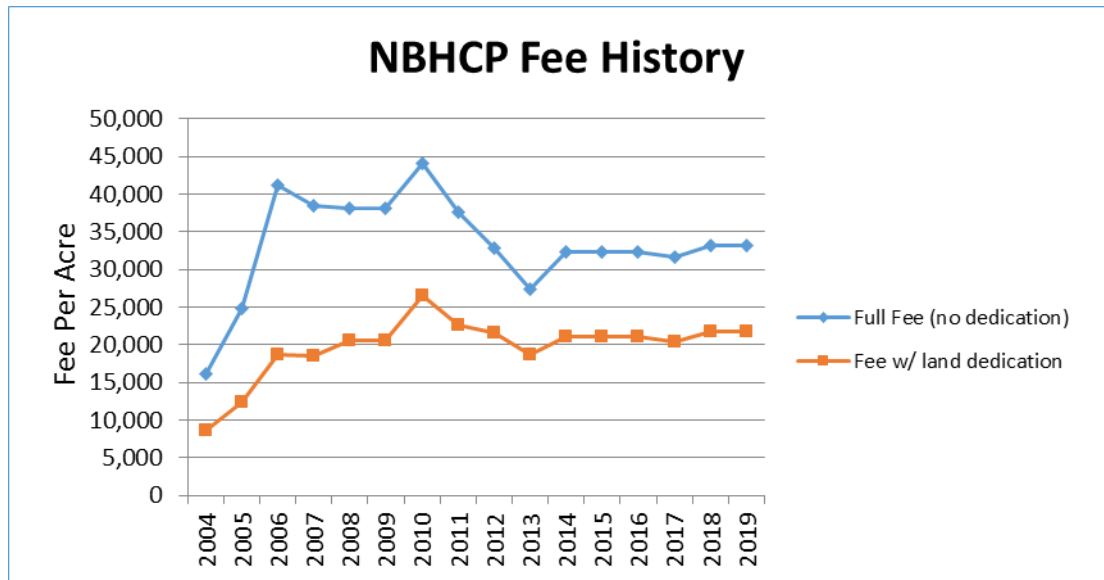
Background:

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 since 2014. Within the last several years, the fee has been adjusted on twice. In 2017, there was a decrease of \$659 in the fee largely due to an increase in estimated crop land lease revenue per acre used to offset the Administration and Operation and Maintenance Costs. In 2018, there was an increase in the fee of \$1,491 which reflected the change in the estimated annual Endowment fund management fees paid by TNBC over the 50-year life of the NBHCP. The proposed 2019 fee would be unchanged from 2018. Therefore, no Council action is required at this time.

Graphic - Fee History 2004 through 2019



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

January 17, 2017	\$31,600 (\$20,350 w/ land dedication)	2017-0043
January 30, 2018	\$33,091 (\$21,841 w/ land dedication)	2018-0051
February 26, 2019	\$33,091 (\$21,841 w/ land dedication)	N/A

* 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.

TNBC is the plan operator of the NBHCP. TNBC acquires mitigation land and implements management and enhancement measures necessary to meet the mitigation requirements of the NBHCP. With best available information regarding current and projected costs associated with implementation of the 2003 NBHCP, TNBC staff worked with its economic consultant -EPS - to update the HCP Finance Model. Based on the economic model and the judgment of the TNBC, an increase adjustment is needed to accurately reflect the current costs of operating the HCP and thus should be reflected in the HCP fee.

Justification for Not Adjusting the HCP Fee

In order to implement the HCP, each December, TNBC recommends that the City Council approve a fee adjustment, if an adjustment is deemed necessary to implement the NBHCP given current assumptions. The current fee is \$33,091 per gross acre of development (\$21,841 per acre with land dedication); the proposed fee would be unchanged for 2019 based on the NBHCP Finance Model and TNBC's analysis.

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 component is allocated to the City for fee collection (2% of the fee).

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 30, 2018) is available for review at the City Planning Office, 300 Richards Blvd., 3rd Floor, Sacramento, CA 95811, as Attachment 3 to this report.

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 the full 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, there has been an increase in development taking place in areas that were previously graded and residential and non-residential development has also progressed in the Natomas area.