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Staff Report

SS ITEM 3

To: **Lemoore City Council**

From: **Lauren Apone, Administrative Analyst** LA

Date: **October 30, 2013**

Subject: **Impact Fee Discussion**

Discussion:

In the past, Impact Fees and Master User Fees have been brought to Council as one item. Staff decided to separate these items from this point forward for two reasons. First, the fees are very different in nature and are not related to each other. Second, at the September 3, 2013 meeting, Council wished to delay the Master User Fee discussion until after the Zoning Code update, which is expected to take place in December. Separating the fees allows us to move forward with the Impact Fee discussion while waiting for the Zoning Code to be updated.

The main premise of impact fees is that when new development comes into Lemoore, they place a stress on the existing infrastructure. While the City might not need to drill a new water well for one additional business or residence, the cumulative impact of these developments will require more infrastructure. Thus each new project pays a fee equal to its proportion of the cost for this new infrastructure and offsets its individual impact. This money goes into an account which is dedicated to developing or repairing this infrastructure, and thus the General Fund and current residents are not burdened with the cost of the infrastructure expansion to accommodate growth in the future. If the City reduces impact fees, the cost of the infrastructure is still there and the shortfall will need to be made up somehow.

In addition, our impact fees are based on the costs of necessary improvements in the future. These costs as calculated today are based on non-prevailing wage rates for construction labor. As a charter city, Lemoore has historically been able to construct locally funded projects with non-prevailing wage labor. However, in October, Senate Bill 7, which prevents charter cities that use non-prevailing wage rates for locally funded projects from receiving any state funding, was signed by Governor Brown and enacted into law beginning in January 2015. The Council had written a letter of opposition to this bill back in February 2013. The inclusion of prevailing wage rates will increase the cost of the construction projects our impact fees are based on. If Council wishes to continue to fund these projects, impact fees would need to be increased or another funding source would need to be identified.

Council voiced support for a few ideas during its last discussion on September 3, 2013. First, Council asked that staff investigate the effects of a 20% across the board decrease in impact fees for commercial and industrial projects. Previous analysis that was given to Council on October 1st, 2013, but never presented or discussed, showed that this would produce a shortfall of $6.2 million through 2030 to the various impact fee accounts. Second, Council indicated that they were willing to make impact fee reductions for businesses, but not willing to reduce the contributions to the impact fee accounts. The remainder of this report contains several ways that may be able to address the desire to reduce impact fees without creating a shortfall in the impact fee accounts.

<u>Across the Board Decrease</u>

One option is to decrease commercial and industrial impact fees across the board by a certain percentage.

Pros:

- This approach is simple to implement, and will give the same opportunity to all businesses, thus encouraging small businesses as well as large ones.

Cons:

- The theory behind reducing impact fees for businesses is that they produce sales tax revenue that will increase the City's General Fund. This is true; however, there are a few things I would like to point out. Not all businesses generate the same amount of sales tax. For example, a big box store would produce much more sales tax revenue for the City than a small restaurant.
- In addition, not all businesses create sales tax revenue. While a business such as a hospital or industry would help Lemoore residents in many other ways by providing jobs and needed services, there is very little direct benefit for the General Fund revenue at the City of Lemoore. The construction of one of these types of businesses would increase property tax, but the City only gets 0.84% of property tax, so the contribution to the General Fund would be significantly smaller.

If Council chooses this option, staff recommends two additions to this proposal. First, impose some sort of time limit for how long the reduced impact fees will be in place. This will encourage immediate development. If the term is open ended, developers might feel like they have plenty of time to develop and end up postponing their construction or not constructing at all. Second, allow some sort of mechanism that would immediately transfer General Fund money into the Impact Fee accounts in the amount of the proposed reduction. If Council is interested in this option, I will further examine the logistics of the transfer and bring back options to Council.

<u>Impact Fee Deferral with Sales Tax Credits</u>

A second option for Council to consider is to allow a portion of impact fees to be deferred for a period of time (i.e. five years) and then gather actual data for sales tax revenue generated from the business and give the business a credit for a certain percentage (i.e. 50%) of the sales tax revenue against the impact fees owed in year five.

For example, if the total impact fees owed for a business development were $500,000, the business could opt to defer a certain pre-determined percentage of those impact fees, say 50%, for five years. The developer would pay $250,000 at the time of building permit, and opt to defer $250,000 until year five. Then, the City would gather data on the sales tax generated by this business in the five year period. If the sales tax revenue generated to the City's General Fund was $200,000 over this time period, the business would get a credit of $100,000 toward the $250,000 they still owed in impact fees, and owe only $150,000 at the end of year five. This would be equivalent to a 20% reduction in impact fees for this business. The $100,000 that is forgiven is real revenue generated to the General Fund and can be transferred from the General Fund into the various impact fee accounts making them whole.

Pros:

- This approach uses real sales tax revenue, not guesses, to determine the impact fee reduction. This will ensure that the General Fund revenue that is supposed to offset these impact fee reductions is real and can supplement the impact fee accounts.
- This would allow the General Fund to benefit from additional sales tax revenue while still allowing for a portion of the sales tax to credit against the impact fees.
- This approach would encourage development that will be sales tax generators.

Cons:

- This approach would require more tracking of data and up front legal work to set up the program.
- If the business goes bankrupt within the first 5 years before all fees are paid, the City may not be able to collect the fees. This is why I would recommend deferring only a percentage of the fees that could realistically be credited against sales tax revenue and still collecting a portion of the fees upfront. Also, an assessment for the remaining impact fees could be assessed on the tax roll to recover the fees at a later date.
- This approach would not necessarily help businesses that do not produce sales tax. A similar program could be implemented for a proportion of property tax revenue to the General Fund, but its impact would likely be much less.

If Council wishes to move forward with this option, staff will conduct further research to determine effective percentages and deferral periods and present a few options to Council at the next meeting. Staff will also examine the logistics of how the monitoring, tax assessments, and account transfers would work.

Budget Impact:

Depending on which options the Council chooses, the General Fund and/or the impact fee accounts stand to be reduced.

Recommendation:

For discussion only.