CITY COUNCIL/REDEVELOPMENT AGENCY

AGENDA ITEM 6.01
TO: Mayor and City Council

FROM: Michael M. Niblock, Director
Community Development Department

SUBJECT: SIX-MONTH EXTENSION — DELAY IN IMPLEMENTATION OF CERTAIN PROVISIONS OF THE PUBLIC FACILITIES FEE ADMINISTRATIVE GUIDELINES REGARDING THE AGRICULTURAL LAND MITIGATION PROGRAM

RECOMMENDATION

Adopt a resolution approving an additional six-month extension to the delay in the implementation of certain portions of the Public Facilities Fee Administrative Guidelines regarding the Agricultural Land Mitigation Program whereby property owners and/or applicants can either pay a fee or acquire an agricultural conservation easement regardless of the project acreage, while allowing the program to remain in effect.

SUMMARY

Staff is requesting an additional six-month delay in the implementation of certain portions of the Public Facilities Fee Administrative Guidelines regarding the Program in order to address clarification/implementation and litigation related issues with the recently adopted Program. A one-year delay for some provisions of the Program was approved by the City Council on May 1, 2007 (see attached City Council staff report). A six-month extension to that delay was authorized by the City Council on April 29, 2008, which will expire on October 31, 2008. Since the litigation related issues have not yet been resolved, an additional extension is recommended which will expire on April 30, 2009.

DISCUSSION

Background

Since the adoption of this program by the City Council on February 27, 2007, several issues have arisen, including the timing of easement acquisition, the applicability to approved projects, and litigation by interested parties against the City. On May 1, 2007, the City Council approved a one-year delay in the implementation of certain provisions of the Public Facilities Fee Administrative Guidelines for the Program. See attached City Council staff report dated May 1, 2007. A six-month extension to that delay was authorized by the City Council on April 29, 2008, which will expire on October 31, 2008. Since the litigation related issues have not yet been resolved, an additional extension is recommended which will expire on April 30, 2009.
SIX-MONTH EXTENSION - DELAY IN THE IMPLEMENTATION OF CERTAIN PROVISIONS OF THE PUBLIC FACILITIES FEE ADMINISTRATIVE GUIDELINES REGARDING THE AGRICULTURAL LAND MITIGATION PROGRAM

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Current Situation

Staff believes the administrative guidelines and program components should be clarified in order for the program to be effective and is requesting an additional six-month delay in the implementation of the mandatory “in-kind” acquisition of agricultural easements. This six-month period would allow City staff to continue to work with all affected parties involved with the Program process to clarify and resolve the implementation issues associated with the program while allowing the mitigation requirement to remain in effect through continued collection of fees and/or acquisition of agricultural conservation easements.

FINANCIAL SUMMARY

The Agricultural Land Mitigation Program/Fee of $9,600 per acre was established in 2007 within the Public Facilities Fee fund, account 687-000-223.90-18. A 2.5 percent administrative fee has been added to the agricultural mitigation fee to cover the City's processing costs. Consistent with the requirements of the Agricultural Land Mitigation Program, on May 1, 2008, a fee adjustment of 2.8% (Consumer Price Index for All Urban Consumers, San Francisco, Oakland, San Jose area, All Items) has resulted in a total fee of $9,868 per acre. There are no additional costs associated with the proposed implementation changes to the Agricultural Land Mitigation Program.

APPROVED BY

MICHAEL M. NIBLOCK, DIRECTOR
COMMUNITY DEVELOPMENT DEPARTMENT

J. GORDON PALMER, JR.
CITY MANAGER

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Resolution No. ______

STOCKTON CITY COUNCIL

RESOLUTION APPROVING AN ADDITIONAL SIX-MONTH EXTENSION DELAYING THE IMPLEMENTATION OF CERTAIN PROVISIONS OF THE PUBLIC FACILITIES FEE ADMINISTRATIVE GUIDELINES REGARDING THE AGRICULTURAL LAND MITIGATION PROGRAM

On February 27, 2007, the City Council adopted Resolution No. 07-0079 revising the Public Facilities Fee by adding an Agricultural Land Mitigation Fee of $9,600 per acre effective May 1, 2007; and

On February 27, 2007, the City Council adopted Resolution No. 07-0080 amending the Public Facilities Fee Administrative Guidelines by adding Section I.A.6. regarding the Agricultural Land Mitigation Program; and

Issues arose regarding the implementation of the requirement for in-kind acquisition of agricultural conservation easements for projects of forty (40) acres or more, resulting in litigation; and

On May 1, 2007, the City Council approved a one-year delay in the implementation of certain provisions of the Public Facilities Fee Administration Guidelines for the Program; and

On April 29, 2008, the City Council authorized an additional six-month extension to the implementation of the subject Guidelines for the Agricultural Land Mitigation Program; and

Said six-month extension is set to expire on October 31, 2008, and staff is requesting that the implementation of certain portions of the Program be delayed for an additional six-month period to address clarification/implemention and litigation related issues; now, therefore,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF STOCKTON, AS FOLLOWS:

1. For an additional six (6) months of the Program, all projects, no matter what size, shall have the option of paying the $9,868 per acre fee or acquiring an agricultural conservation easement.

2. If a developer acquires an agricultural conservation easement and transfers that easement to the Central Valley Farmland Trust (CVFT), the only portion of the $9,868 fee that still must be paid is the $1,000 for administration and monitoring.
Any transaction costs incurred by CVFT in facilitating the transfer shall be paid by the developer to CVFT during escrow.

3. If a fee is paid, it shall be paid prior to the approval of the final subdivision map, except for industrial subdivisions where the fee shall be paid upon issuance of the building permit. For all other projects that do not require a final map, the fee shall be paid upon issuance of the building permit. Building permit fees shall be calculated based on a net-to-gross parcel area conversion factor as described in the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan (SJMSCP) Fee Study dated November 2, 2006.

4. All other provisions of the Public Facilities Fee Administrative Guidelines adopted on February 27, 2007, that are not inconsistent with the above provisions shall remain in effect.

5. Unless sooner amended or rescinded, this Resolution shall remain in effect until April 30, 2009, at which time it will expire.

PASSED, APPROVED and ADOPTED ____________________________

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EDWARD J. CHAVEZ, Mayor
of the City of Stockton

ATTEST:

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KATHERINE GONG MEISSNER
City Clerk of the City of Stockton