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Local Officials Voice Opposition to County Impact Fee Plan

Council of Cities to County: 'We are not intimidated'

By George Lurie

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Tulare County - A plan by the Board of Supervisors to impose countywide developer impact fees continues to draw fire from city officials around Tulare County.

Last week, the Tulare County Council of Cities sent a scathing letter to the Board of Supervisors regarding the ongoing negotiations between the two entities to develop a Memorandum of Understanding pertaining to the developer impact fees (DIF).

The letter, dated August 25 and signed by Visalia Mayor Bob Link and Porterville City Councilman Pete McCracken, takes issue with a number of aspects of the County's yet-to-be-finalized plan. While city officials from Dinuba and Lindsay did not sign the letter because they are in the process of negotiating separate MOUs with the county, the letter detailed the current position of city officials in Visalia, Tulare, Exeter, Porterville, Farmersville and Woodlake.

The two-page letter stated: "The Cities are very disappointed by the Board of Supervisors' action to pass an ordinance intending to give the Supervisors authority to unilaterally set impact fees inside incorporated cities. We believe it is inappropriate and illegal for the Board to attempt to preempt the decision-making powers of individual City Councils. While we have often heard the board lament about the erosion of local control, it is disturbing to see the Board now trying to take over the sovereign powers of City Councils."

The letter urges Supervisors to repeal the DIF ordinance passed on July 12, which gave the Board legislative authority to levy the DIFs but did not set specific fee amounts or state when the fees would begin to be imposed.

"At the completion of the Board's July 12 public hearing on development impact fees, Supervisor Ishida stated that 'no fees will be set without agreement by Cities.' The Cities do not understand what this means," wrote Link and McCracken. "We request that the County clarify this statement. What specific process is proposed to reach 'agreement' with each City? Does this mean that the County will not take action to set the DIFs in a City without prior written agreement by the affected City Council on the fee amounts?"

Stating that the Cities "are willing" to continue discussions on an MOU – "including consideration of DIFs" – the letter urged Supervisors to include members of the development community. "The development community (primary stakeholders) must have a direct and meaningful role in the process to set DIF fees," the letter states.

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“The development community will be paying the fees and their representatives should be directly involved in the setting of appropriate and justifiable fees.”

The letter ends in a fairly aggressive tone. “During the Board's July 12 meeting and in earlier MOU negotiations, Board members and Mr. Rousseau (County Administrative Officer Jean Rousseau) threatened that if the Cities do not agree to the DIF process set by the Board, the County will demand the payment of fees as part of the CEQA (California Environmental Quality Act) comments on development projects occurring inside Cities. The Cities are not intimidated by this tactic,” write Link and McCracken.

“In the past, we have heard individual Board members lament on the inappropriate use of CEQA as an extortion tactic, and now we see the County using CEQA to further its own objectives in the same way ... The Cities are greatly disturbed that the County would intentionally employ tactics that will place greater uncertainty and financial risk on private sector investments and job creation during an economic recession,” conclude Link and McCracken. “If the County continues to employ this strategy, the Cities will be forced to reciprocate with similar demands on projects occurring in the County. What benefit to our regional economy, our citizens, and taxpayers will be gained by this type of interaction?”

County CAO Rousseau was not available to comment on the Council of Cities letter this week but this past June, he told the Valley Voice: “Despite some of the rhetoric that has been floating around out there, these fees are from set in stone. The Board of Supervisors is very sensitive to the local economy and whatever we do, we'll put a plan in place that has the least amount of impact to the county and its residents.”

Rousseau also said threats of legal action will not influence the county's decision to implement the new fees. “We will develop a local ordinance consistent with what other cities and counties up and down the state are already doing in this regard,” he added.

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