

# **JOINT INITIATIVE**

---

## **PUBLIC POLICY PROJECT**

### **FEE & PERMIT REFORM AGENDA**

#### **Moratorium on Fees**

Establish across the board moratorium on new/higher fees.

#### **Defer Development Fees**

Defer development fees from permit to occupancy/sale.

#### **Audit Fee Structure**

Hire outside auditor to simplify and streamline all fees.

#### **Reset Fees to Competitive Levels**

Roll back fee increases competitive levels rather than “cost recovery”.

#### **Mobilize Public & Business Leaders**

Chamber also should mobilize / generate public support to speak against fee increases during public meetings after the May budget proposal.

## **POLICY RECOMMENDATIONS**

---

► **Moratorium on New Development Fees and Fee Increases Until the Economy Recovers.** This paper has demonstrated that the City of San Jose continues to squeeze local businesses by continually increasing fees. Development activity is way down but fees keep going up. The city uses fee increases to fund exorbitant public employee pensions and salary increases. It is counterproductive to increase fees during an economic downturn.

► **Reduce Development Fees By 20 to 40%.** Many other jurisdictions have enacted significant reductions to their development fees to increase economic activity. The City of San Jose could follow suit.

► **Defer Development Fees From The Time The Building Permit Is Pulled Until The Time The Home Is Sold.** The California Building Industry Association reports that nearly 50 California local jurisdictions have deferred their fees from the time the building permit is pulled until the home is sold, which reduces the up-front costs to builders and helps make more projects pencil out financially. This does not reduce city revenues, the fees are collected, just at a later date.

► **Reduce City Staff Costs To Reduce Fees Charged To Businesses.** The city's hourly charges for public works, planning and other development-related departments appear to be far higher than the public sector. Many of the city's hourly charges are approaching \$200 per hour, while many consultants in the private sector charge \$125 per hour. Reducing city staff costs, including pensions and benefits, will lead to reduced fee increases because city departments base the fees they charge on staffing costs.

► **Waive Certain Development Fees for Businesses that Retrofit Inefficient Equipment With Approved Energy Efficient Equipment.** The City of Anaheim waives applicable building permit fees (up to \$5,000) for Anaheim businesses that retrofit inefficient equipment with approved energy efficient equipment.

► **Hire Outside Consulting Firm To Evaluate The City's Development Programs To Simplify and Reduce The Number of Fees Used.** The City of San Diego recently hired an outside consultant to conduct an objective and comprehensive analysis of the city's development programs. A major objective of the fee analysis, which was completed in early 2009, was to simplify and reduce the number of fees currently used. As a result of the study the city was able to consolidate 1,414 fees into 502. The recommended fees presented in the study reflect the full cost of providing the individual services and to bring department reserves to Council established levels over a five year period.

► **Form A Task Force To Examine Reducing Development Fees Or Other Fees On Business.** The city could form a task force composed of members of the city staff, business community, and City Council to examine reducing development fees or other fees on San Jose businesses.

# JOINT INITIATIVE

## PUBLIC POLICY PROJECT

### Fee & Permit Reform Talking Points

**The problem:** San Jose has become one of California's least "business-friendly" cities. As development has slowed, the city has raised fees to continue collecting the same revenue from fewer projects – create a disincentive for economic activity.

#### Facts & figures:

- City budget update shows 2009 total of all fees is \$70 million – below the \$102 million estimate in the 08-09 budget and below the 101 million collected in 06-07.
- Most of the difference is blamed on passage of Measure J and elimination of the Emergency Communication Support System fee on telecommunication.
- City policy has a policy that fees cover all costs, yet fees charged by Dept of Finance collect 211 of costs and Libraries collect 167% of costs.
- To meet the "100% recovery" the City has created or raised over 100 fees over 2 years. A sample of new/higher fees include:
  - Homebuyer subordination fee (\$280 to homebuyers who get assistance).
  - Multi-family project owner transfer fee (\$1,275 per transaction).
  - 4% increase in fire-permits and reviews.
  - New Environment Review fee (\$187 per hour).
  - Even a fee for canceling an appointment with the Planning Dep. (\$38).
  - Increased hourly rate for Planning Department from \$144 to \$154.
  - 4.2% increase to the Multiple Housing Occupancy Fee.
  - Increased development fees by 10%.
  - Increased Underground Utility Fee from \$224 to \$395 per linear foot.
  - Doubled the trade zone application fee from \$1500 to \$3000.
- Over 50 California cities have deferred fees from permit to when the home is sold.
- Nearly 60 cities have cut various development fees from 10% to 50%.
- A number of cities have deferred commercial development fees for up to 2 years.
- Several cities have reduced or eliminated affordable housing impact fees altogether.
- 74% of voters support moratorium on fees to help businesses create jobs.
- 76% support tax incentives to help attract/retain businesses/create jobs.

**The Solution:** San Jose needs to reduce or defer fees (both cost and variety of fees).

#### Recommended Proposals:

1. Establish across the board moratorium on new/higher fees.
2. Defer development fees from permit to occupancy/sale.
3. Hire outside auditor to simplify and streamline all fees.
4. Roll back fee increases competitive levels rather than "cost recovery".
5. Chamber also should mobilize / generate public support to speak against fee increases during public meetings after the May budget proposal.

November, 2009

# **New Fees, Fee Increases City of San Jose**

---

## **Executive Summary**

Despite a severe economic downturn, this white paper finds that the City of San Jose continues to enact new fees and increase existing fees on businesses at an alarming rate. This paper seeks to review the fee increases enacted by the city's major departments over the 2008-09 and 2009-10 budget years, review what other cities have done with regard to fees, and proposes a series of recommendations to address the city's out-of-control fee increases.

City documents indicate that overall fee revenue is down, but fees keep going up as the city struggles to maintain revenues. Skyrocketing pension and staff costs, which typically represent 80-90% of overall costs, continue to drive the city's costs higher to provide the same level of services. The drop off in development activity over the past two years has forced the city to layoff a number of workers to prevent having to charge even higher fees. Recent media reports indicate that the city's budget deficit for next year is projected to be \$78 million, which means the city's May budget proposal is likely to propose a series of new fee increases on businesses and citizens who are already under a significant amount of financial stress from the down economy.

Margaret McCahan, deputy director of the city's Budget Office, says the city puts the proposed budget together, and any proposed fee increases, for release on May 1, 2010. After that, a series of public meetings are held to gather input on the budget and proposed fee changes. The Mayor proposes modifications to the budget in June which are then considered by the City Council for final implementation of the budget effective on July 1. Here is a summary of some of the policy proposals recommended in this paper:

- ▶ Enact A Moratorium On New Development Fees And Existing Fee Increases Until Economy Recovers.
- ▶ Reduce Development Fees By 20 To 40%.
- ▶ Defer Development Fees From The Time The Building Permit Is Pulled Until The Time The Home Is Sold.
- ▶ Restrain City Staff Costs To Help Control Fees Charged To Businesses.
- ▶ Hire Outside Consulting Firm To Evaluate The City's Development Programs To Simplify And Reduce The Number of Fees Used.
- ▶ Form A Task Force To Examine Reducing Development Fees Or Other Fees On Business.

## **BACKGROUND STUDY**

---

### **Description of Problem**

The economic downturn has forced many businesses to contract and shed jobs and made it much harder make ends meet. The City of Jose has put an increasing financial burden on businesses by increasing hundreds of fees year after year.

### **Background**

Recent media reports indicate that the city's budget deficit for next year is projected to be \$78 million. Recent history has shown that the city is likely to propose a series of new fee increases on businesses and citizens who are already under a significant amount of financial stress from the down economy.

### **Local Businesses Struggle During Economic Downturn**

A recent survey of business CEOs in Silicon Valley by the Silicon Valley Leadership Group found a significant chilling in the business climate with "more than four out of 10 responding companies indicating that they subtracted jobs in 2008, a marked reversal from the previous year." "The 2009 CEO survey found that 42% of companies had subtracted jobs since January 1, 2008, up sharply from 12% and 11% for the "year previous reports" in the 2008 and 2007 surveys," states the survey.

In early September, the Manpower releases its Employment Outlook Survey for San Jose-Sunnyvale-Santa Clara which found that area employers expect to hire at a "reserved pace" during the fourth quarter of 2009. "From October to December, 11% of the companies interviewed plan to hire more employees, while 14% expect to reduce their payrolls. Another 69% expect to maintain their current staff levels and 6% are not certain of their hiring plans," states the survey.

Statewide housing production has plummeted from nearly 213,000 homes and apartments in 2004 to just 65,000 in 2008, and is projected to fall to less than 45,000 in 2009. This has cost the state an estimated 363,000 jobs, \$46 billion in economic output, \$2.2 billion in tax revenues to the state and \$426 million in revenues to local governments, according to the California Building Industry Association.

### **Overall Fee Revenues Decline Despite Hundreds of Fee Increases 2008-09 to 2009-10**

A September 2009 report issued by the City Manager's Office, finds that despite the enactment of hundreds of significant fee increases in recent years, overall fee revenue continues to decline. The report found that cumulative departmental fees and charges for 2009-10 are projected to generate revenue of approximately \$70.3 million, but the overall collection level is approximately \$32.6 million below the 2008-09 adopted estimate of \$102.8 million. "The majority of this large decline from 2008-09 was the result of the elimination of the Emergency Communication System Support (ECSS) Fee, which was expected to generate \$24 million in 2008-09," states the report. Measure J approved by voters in November 2009 replaced the ECSS fee with a telephone line tax.

“The 2009-10 projected revenues for the development fee programs (building, planning, public works, and fire) are also well below the 2008-09 adopted budget levels to reflect the significant decline in development activity levels,” states the report. For example, the revenue estimate for the Planning, Building and Code Enforcement Department is almost \$10 million below the 2008-09 adopted budget level.

Cumulative departmental fees and charges for the prior budget year, the 2008-09 budget year, were projected to generate \$102.8 million, which would be approximately \$1.6 million above the 2007-08 adopted estimate of \$101.2 million, according to city documents.

**City Council Directs City Departments To Raise Fees To Recover 100% of Administration Costs For Most Programs and Services.**

The City Council continues to have a policy of directing city staff to attempt to recover 100% of the city’s cost to administer some programs and services but less than 100% for other programs and services (see chart below). As the chart illustrates, the city actually makes money on fee revenues for categories of fees administered by the Department of Finance and the City Library.

**2009-2010 FEES AND CHARGES REPORT  
DEPARTMENT FEES AND CHARGES SUMMARY**

	2008-2009 ADOPTED BUDGET			2009-2010 ADOPTED BUDGET				
	Estimated Cost	Estimated Revenue	% Cost Recovery	Estimated Cost	WITH CURRENT FEE		WITH ADOPTED FEE	
					Estimated Revenue	% Cost Recovery	Estimated Revenue	% Cost Recovery
<b>Category I - (Fees Which Should Be Cost Recovery)</b>								
City Clerk	40,000	40,000	100.0%	43,500	43,500	100%	43,500	100.0%
Environmental Services	390	390	100.0%	440	390	88.6%	440	100.0%
Finance	1,526,222	1,526,222	100.0%	1,504,385	1,309,369	87.0%	1,489,609	99.0%
Fire	6,087,615	5,720,000	94.0%	4,855,109	4,126,000	85.0%	4,126,000	85.0%
General Services	12,675	10,000	78.9%	17,879	13,000	72.7%	16,000	89.5%
Housing	469,738	469,738	100.0%	491,948	485,198	98.6%	491,948	100.0%
Library	10,000	10,000	100.0%	14,000	14,000	100%	14,000	100.0%
Parks, Recreation & Neighborhood Services	4,975,045	4,775,578	96.0%	5,383,934	4,841,746	89.9%	5,171,156	96.0%
Planning, Building & Code Enforcement	38,867,822	37,241,812	95.8%	27,559,128	27,299,899	99.1%	27,559,128	100.0%
Police	4,702,235	4,482,720	95.3%	5,266,844	4,062,252	77.1%	4,767,524	90.5%
Public Works	7,520,545	7,430,545	98.8%	5,508,270	5,079,870	92.2%	5,508,270	100.0%
Transportation	1,116,632	1,116,632	100.0%	1,482,345	1,142,142	77.0%	1,213,465	81.9%
<b>Total Category I:</b>	<b>65,328,919</b>	<b>62,823,637</b>	<b>96.2%</b>	<b>52,127,782</b>	<b>48,417,366</b>	<b>92.9%</b>	<b>50,401,040</b>	<b>96.7%</b>
<b>Category II - (Fees Which May Be Less Than or More Than Cost Recovery)</b>								
Economic Development	63,650	37,250	58.5%	104,504	50,700	48.5%	58,330	55.8%
Environmental Services	4,547,488	4,204,302	92.5%	6,039,362	3,630,753	60.1%	3,630,753	60.1%
Finance	1,110,000	3,385,000	305.0%	1,802,145	3,817,145	211.8%	3,817,145	211.8%
Fire	3,547,596	3,545,300	99.9%	3,744,421	3,744,421	100%	3,744,421	100.0%
General Services	2,024,923	1,501,716	74.2%	2,628,195	1,711,700	65.1%	2,032,463	77.3%
Library	1,008,900	1,205,500	119.5%	1,101,968	1,236,500	112.2%	1,836,500	166.7%
Parks, Recreation & Neighborhood Services	3,789,393	2,049,545	54.1%	5,486,825	4,083,385	74.4%	4,635,514	84.5%
Planning, Building & Code Enforcement		69,000			62,000		62,000	
Police	26,757,028	24,000,000	89.7%	406,885	58,900	14.5%	58,900	14.5%
Transportation	26,000	26,000	100.0%	5,325	5,200	97.7%	5,325	100.0%
<b>Total Category II:</b>	<b>42,874,978</b>	<b>40,023,613</b>	<b>93.3%</b>	<b>21,319,630</b>	<b>18,400,704</b>	<b>86.3%</b>	<b>19,881,351</b>	<b>93.3%</b>
<b>TOTAL CATEGORY I AND CATEGORY II:</b>	<b>108,203,897</b>	<b>102,847,250</b>	<b>95.0%</b>	<b>73,447,412</b>	<b>66,818,070</b>	<b>91.0%</b>	<b>70,282,391</b>	<b>95.7%</b>
<b>TOTAL GENERAL FUND</b>	<b>75,033,671</b>	<b>70,263,220</b>		<b>64,812,867</b>	<b>58,338,984</b>		<b>61,795,899</b>	
<b>TOTAL NON-GENERAL FUND</b>	<b>33,170,226</b>	<b>32,584,030</b>		<b>8,634,545</b>	<b>8,479,086</b>		<b>8,486,492</b>	

“For all Council-directed cost recovery fee programs (excluding penalties, fines, and non-cost recovery activities), 2009-10 adopted fees and charges are projected to recover 96.7% of fee program costs which is slightly above the 2008-09 budgeted cost recovery level of 96.2%,” states the city report. “In developing the 2009-10 fee structure, staff was guided primarily by the City Council’s policy direction to strive for 100% cost recovery for most fee-related programs,” states the report.

The report states that “all fee programs were reviewed to ensure that the amounts being assessed would remain competitive in the market, would not be too prohibitive, and would remain as close as possible to current levels of cost recovery.” “The departments with an overall cost recovery level below 100% typically administer fee programs that the City Council has previously directed remain at less than cost recovery, generally in order to assure public access to services. Examples include fees for public records and youth recreation programs,” states the report.

The report notes that “development activity, including planning permit applications, building permits, plan reviews, and inspection activity, has been deeply impacted by the reception currently gripping the global economy.” To illustrate, residential construction experienced a 50% decline in 2007-08 and has declined nearly 25% in 2008-09 from the already low levels experienced in 2007-08. The report notes that development activity has declined for each land use category including residential, commercial, and industrial and that “activity during the January 2009 to June 2009 period was at an all time low.” “Permit valuation is expected to remain at low levels for the foreseeable future.”

“The steep decline in 2008-09 necessitated three of the four development services partners to return to City Council in January and February to right-size their budgets, addressing projected shortfalls in the Building (\$5.6 million), Planning (\$1.9 million), and Fire (\$1.0 million) Fee Programs. In the Public Works Fee Program, a downward adjustment of approximately \$1.3 million to the 2008-09 revenue estimate was brought forward to City Council in June 2009.”

The report notes that “development activity is expected to remain extremely weak through 2009-10” and “resource adjustments were approved to address this lower activity level.” The report states that additional fee increases were not included in the development fee areas, with the exception of the Public Works Department.

### **New Fee Increases Adopted for 2009-10 Budget**

In preparing resource and fee proposals for 2009-10, the report states that city staff met with the San Jose Silicon valley Chamber of Commerce’s Development Committee and sought feedback from a number of other industry groups representing home builders, office park developers, architects, and the remodel industry.

**Despite the economic downturn, San Jose has raised or created more than 100 fees.**

Notwithstanding this input, the city proposed dozens, potentially more than 100, new fee increases that will negatively impact businesses and the business climate in the City of San Jose. These new fees and fee increases will occur in nearly every city department including dozens of fee increases for all four development fee program departments.

These new fees attempt to sustain or increase the city’s cost recovery for city services and programs, despite the fact that businesses are already reeling from a bad economy.

For a full list of fees enacted in 2009-10 and 2009-09 visit:  
<http://www.sanjoseca.gov/budget/FY0910/AdoptedFeesCharges0910.asp>.

### **Finance Department Fee Increases for 2008-09 and 2009-10**

The Finance Department has implemented a variety of new fees and existing fee increases on businesses and residents over the past two budget years. For 2008-09, the department implemented a new business tax administrative fee of \$22 dollars on the approximately 64,000 businesses who apply annually, a new sidewalk lien fee of \$45 that will affect approximately 433 new sidewalk lien accounts annually and an administrative remedies lien fee of \$38 on the 67 taxpayers who appear before the city in administrative remedy hearings that take place per year. The city currently makes money off the Garbage Lien Program and Garbage Lien Services fee, “which are not subject to cost recovery restrictions” and were anticipated to generate \$3.4 million for the city in 2008-09. In that year the city increased the solid waste delinquency late payment charge.

For 2009-10, the city approved a new collection fee on all accounts over 60 days past due, but less than 90 days past due. This fee, which was established in 2006, is the greater of \$25 or 15% per account. For 2009-10, the city once again increased the administrative remedies lien fee (from \$38 to \$40), the business tax certificate fee (from \$22 to \$25), business tax special report fees (from \$47 to \$51), circuit permit fees (from \$190 each additional day to \$208), exempt business tax fees (from \$35 per account to \$38 per account), handbill license fees (from \$38 to \$40 per year), hand bill owner’s permit fees (from \$29 to \$31 per year), and sidewalk administrative fees (from \$45 to \$47).

### **Housing Department Fee Increases for 2008-09 and 2009-10**

In 2008-09 the Housing Department reinstated the rent-controlled apartment fee, which was suspended in 2007-08, because the program had accumulated substantial reserve (\$640,000). The city’s Rental Rights and Referrals Program fees are collected from rental units covered by the Rent Control Ordinance. In 2002-03, the fee structure was adjusted to \$9.09 for rent-controlled apartments, \$6.26 for mobilehomes, and \$0.50 for non-rent controlled apartments. This fee schedule remained unchanged over the next five years, despite the fact that the city acquired a huge surplus of fee revenues.

A 2008-09 analysis by the city revealed a decrease in the city’s costs for rent-controlled apartments and an increase in the costs for mobilehomes and non-rent controlled apartments that is required to bring each of the three areas to full cost recovery. In response to these findings, the city reinstated the rent-controlled apartment fee for 2008-09 at the following rates: \$7.26 (from \$9.09) for rent-controlled apartments, \$13.82 (from \$6.26) for mobilehomes, and \$0.80 (from \$0.50) for non-rent controlled units.

For 2009-10, despite the recent crash in the housing market, the Housing Department implemented to new fees including the homebuyer subordination fee and the multi-family project owner transfer fee. The homebuyer subordination fee, of \$280 per transaction, will be charged to existing homebuyers who have already been assisted by the Housing Department in attaining homeownership. The fee will be charged upon the homebuyers’ request to refinance their existing home loan to obtain a lower mortgage interest rate.

The multi-family project owner transfer fee, of \$1,275 per transaction, will be collected from project developers to assist in recovering the city’s cost associated with completing and evaluating due diligence packages.

**Fire Department Fee Increases for 2008-09 and 2009-10**

For 2008-09, the city’s Fire Department increased fees to help bridge the gap between anticipated revenues of \$8.7 million and base expenditures of \$9.1 million. For the development-related program, the department enacted a 4% fee increase (\$220,000) and a 10% fee increase (\$322,000) for non-development-related program to be disseminated evenly across most of the fee categories.

The Fire Department administers fees for fire safety permits and inspections, fire safety plan reviews, and inspections for construction projects submitted to the Building Division, fire system permits, hazardous materials permits, and charges for fire reports and documents.

The 4% development related fee increase included increases for engineering installation, removal, or alteration permits, hazardous materials installation or removal, inspector activity fees, plan review fees, and other miscellaneous fees. The 10% non-development-related fee increase of 10% includes annual renewable permits, fire safety permits, and inspector activity fees.

As a result of a “severe drop” in development activity, the city’s 2008-09 mid-year budget review included a \$1 million downward adjustment to the Fire Department’s budgeted development fee revenue and a reduction in staff positions, according to city documents. “The lower level of development activities is projected to continue into 2009-10, resulting in an anticipated gap of \$736,000 between anticipated revenues of \$4.1 million and base expenditures of \$4.9 million. For 2009-10, the Fire Department managed to bridge the shortfall without additional fee increases on development related programs but did raise \$199,000 in fees from non-development related programs.

The fee increases for non-development related programs included the imposition of an hourly inspection fee for fire safety permits and a new \$50 course fee for Office of Emergency Services training.

**Planning, Building and Code Enforcement Department Fee Increases for 2008-09 and 2009-10**

Despite a huge drop in development activity, the Planning, Building and Code Enforcement Department implemented a variety of new fees and increased existing fees in 2008-09.

The Building Fee Program faced a project cost recovery shortfall of 31% totaling approximately \$6.8 million, based on 2007-08 revenues not performing as expected and cost increases. “The primary drivers for projected cost increases in both programs are salary, retirement contributions, and fringe benefits (primarily health insurance costs) increases. Ninety percent of the development partners’ budget is related to personnel costs,” state city documents.

In 2003-04, the Building Division switched to a new time-based fee methodology for projects that is based on the time it normally takes to deliver service for that project type. Customers requiring additional service pay additional fees at established hourly rates. Thus, any cost increases in salaries, pensions, fringe benefits, are directly passed along to businesses and other city citizens in the form of fee or tax increases.

“Despite the success of the new fee methodology, the Building Fee Program requires strategic changes to offset a project shortfall in revenues due to the ongoing increase in personnel expenses and the recent short-term slowdown in residential activity.

The 2008-09 adopted Building Fee Program budget included a 10% fee increase to generate \$2.1 in additional revenue, increases to commercial/industrial fees, and the reinstatement of the Temporary Certificate of Occupancy and Time Extension permit fees to generate an additional \$750,000 in revenue. It also included a 7% fee increase for the Planning Fee program that was estimated to generate \$438,000 in increased revenue.

For 2008-09, the city also increased the hourly rate for planning services without a designated fee to \$154 per hour from \$144 per hour, the hourly rate for Planning Environmental Review and Site Development Services without a designated fee to \$189 per hour from \$175 per hour. It implemented a 2% increase for the Multiple Housing Occupancy Fee and slightly decreased a few fees such as the automobile dismantler permit fee, neglected/vacant house registration fee, and auto body repair shop permit fee.

The Planning Environmental Review and Site Development program piloted the new time-based fee methodology in 2008-09 and implemented the following new fees:

- **Environmental Review Fees:** A time-based fee structure in which an initial fee, based on the average review time of the service, plus a \$187/hour charge for additional service.
- **Site Development Fees:** An initial time-based fee structure, plus a \$187/hour charge for additional service.
- **Planning Appointment No Show Fee:** A \$38 fee charged to applicants who do not show or cancel a scheduled planning appointment.

Despite these fee increases in 2008-09, the department faced a steep budget gap in 2009-10 due to bad economy and reduced development activity. “With the steep decline in development activity, and an associated decrease in revenue, the Department of Planning, Building and Code Enforcement in January 2009 faced a projected \$7.5 million gap in its 2008-09 development fee program between projected revenues and costs,” state city documents.

In order to rectify this situation the City Council eliminated 52 positions and reduced non-personnel/equipment funding. “Anticipating a lack of support from the development community for an across-the-board fee increase, the Department focused on process improvements and targeted fee increases for those fees that were not at cost-recovery,” state city documents.

For 2009-10, the city approved a 4.2% increase to the Multiple Housing Occupancy Fee and a 4.1% fee increase in the Solid Waste Enforcement Program. The city also implemented a new Geotechnical Testing Environmental Review Fee (\$187 per hour, 1 hour minimum, plus additional time at \$187 per hour and reinstated the Alternative Materials and Methods of Construction Processing Fee (\$420 base fee plus additional time at \$210 per hour.

### **Police Department Fee Increases for 2008-09 and 2009-10**

For 2008-09, the Police Department projected fee revenues of \$28.5 million, which reflects a 4.3% increase compared to the 2007-08 adopted level. “The increase reflects adjustments to fees to maintain the Council-approved cost recovery level and higher revenue estimates, including Public Entertainment, Taxicab, Secondary Employment, and Card Room Fees.” Police Department fees for many services would have went up by a lot more but the Department decided to phase in the fee increases over a number of years.

“In order to mitigate the impact of the fee increases, which will be required to achieve full cost recovery, the fee increases will be phased in over several years. Therefore, in 2008-09, the above mentioned permit fees are approved to increase by only 10% even though this will leave the fees well below costs recovery levels,” state city documents. For 2008-09 the Police Department did decrease a majority of fees by 1-2% “based on a lower overhead rate, a lower paid absence rate, and a lower retirement rate for sworn personnel.”

However, things had changed dramatically by 2009-10 when the city stated that “the majority of Police Department fees are increasing 8-10% based on the increased costs of sworn personnel associated with the Police Officers Association’s (POA) new contract with the City.” For 2008-09, the department increased the Public Entertainment Business permit fee and the Public Entertainment Ownership/Management license fee by 291% and 254%, respectively. Card room table fees were increased by 26.7%.

The Department also added a new Event Promoter permit fee of \$986 that will be charged to individuals who promote events at San Jose establishments. The Department also added a new \$497 Gaming Permit Registration fee for non-profits holding “casino night” type fundraising events.

Projected Department revenue for 2009-10, was projected to fall to \$4.8 million—an 83% decreased compared to the 2008-09 level. The decrease is due to the inclusion of \$24 million in revenue from the Emergency Communication System Support (ECSS) fee in the 2008-09 Police Department fee program. On November 4, 2008, voters in San Jose approved Measure J, a tax measure that eliminated the ECSS fee and replaced it with a new Telephone Line Tax. Without the revenue from the ECSS fee, the budgeted 2008-09 adopted revenue was \$4.5 million. The \$4.8 million in estimated revenue in 2009-10 will be a 7.7% increase over the adjusted 2008-09 revenue.

As noted above, the majority of Police Department fees were increased by 8-10% based on increased costs, some by as much as 20%. Taxicab permit fees were increased by 20%, 10% higher than in 2007-08. Towing permit fees were also increased by 20%. On March 24, 2009, the City Council approved rolling back the Cardroom table fees to the 2007-08 level, as a result of a legal settlement with the Cardrooms. The Department also added a new Special Events Traffic Enforcement Unit fee for large events, based on staff time. For 2009-10, the Department also increased vehicle impound fees (from \$120 to \$182), amusement device permit fees (from \$235 to \$254), bingo permit fees (from 1.64% of monthly gross payouts to 1.87% of gross payouts, plus a \$50 flat fee), work permit fees (from \$307 to \$333), concealable firearm permit fees (\$440 to \$537), funeral escort fees (\$359 to \$388 for initial permits), a variety of ice cream vendor permit fees, massage parlor fees, pawnbroker and peddler fees, public dance hall, billiard room, and block party fees among others.

### **Public Works Department Fee Increases for 2008-09 and 2009-10**

Public Works Department Fee Program collections were estimated to end 2007-08 at approximately \$6.8 million, well below the adopted budget estimate of \$8.7 million and the mid-year budget review level that revised the revenue estimate down again to \$8 million. With the estimated 2008-09 base revenue remaining flat at the projected 2007-08 level, the base costs at \$8.8 million, the Fee program faced a \$2 million base shortfall for 2008-09. This gap was closed with fee adjustments and the elimination or redirection of 13.2 staff positions.

During 2007-08, the Public Works Department completed the first phase of a comprehensive cost-of-service analysis for its fee programs, which began with planning review fees as discussed previously. Based on this analysis, a new fee structure for planning fees was adopted with fees based on the average hours expended and a calculated hourly rate for employees providing the service.

The planning fee cost-of-service analysis revealed that current fees were so far below cost recovery that full implementation of the new fee model would require a 77.5% increase in planning fee revenue. The city undertook an outreach effort with the development community to seek support for a comprehensive fee increase package.

“During these discussions, members of the development community expressed concerns about the magnitude of the fee increase for full implementation of the fee increase for full implementation of the revised fee structure,” state city documents. For 2008-09, the city decided to increase development fees by 10% and implement a new fee structure that is 26% below the cost recovery rate associated with current performance standards.

For 2008-09, the city increased the Underground Utility Fee from \$224 per linear foot to \$395 per linear feet. The city also implemented a streamside protection fee for projects situated adjacent to streams and creek beds and a new GIS data extraction, compilation, and programming fee to produce data or documents in response to customer requests including Public Records Act requests.

A full review of the 2008-09 Public Works Department Fee increases reveals a number of additional increases, many of which are far more than a 10% increase, some increases approaching 100% or more, including increases to common interest development engineering and inspection (private street) fees, development application review applications, flood plain management fees, geological assessment, geological hazard review and investigation, and seismic hazard zone review, among others.

“Due to a precipitous decline in revenue in the second half of 2008-09, Development Fee revenue is anticipated to end the 2008-09 fiscal year well below the adopted estimate of \$5.7 million. The cost reduction measures implemented in February 2009 and additional reductions implemented in March 2009 are not anticipated to be sufficient to balance the program budget,” according to the city’s 2009-10 fee report.

“For 2009-2010, base revenue for the Development Fee Program is projected to be \$3.4 million based on the activity level the program is currently experiencing. A base cost of \$5.5 million left the Development Fee Program with a base shortfall of \$2.1 million,” state city documents. The city decided to close the gap through resource reduction and fee increases.

In September 2008, the Department contracted with the Matrix Consulting Group to prepare a management study of the services, fees, processes, performance levels, and staffing in the Development Fee Program. Matrix concluded that the current fee structure is only recovering 89% of the cost of services provided and recommended revisions to how some fees are calculated. Implementation of the new fee structure is expected to generate a 12.6% increase in revenue or \$428,400.

Development staff engaged in several discussions with the development community about the fee increases. The development community raised concerns about enacting significant fee increases in a challenging economy.

For 2009-10, a number of new fees were approved as well:

- Traffic Reports Operational Analysis Fee (Workscope and Review): This fee will support analyses to investigate a development projects' potential impact on the surrounding street network.
- Grading Permit Compliance Review Fee: These fees were "mistakenly deleted in 2008-09" and are "being reintroduced in 2009-10."
- Streetlight Re-Inspection Fee: This fee will support the re-inspection of streetlight modifications or installations for development projects.
- Grading Permit Exemption Fee
- Arterial Lateral Permits Fee (Sanitary Storm)
- Separate Instrument Easement Dedication Fee
- Amended Map Fee
- Inspections of Repairs to City Infrastructure Fees
- Potholing Fees
- Sanitary Manhole Flow Monitoring Fees
- Soil Sampling Borings Fee
- Street Closure Fee

### **Transportation Department Fee Increases for 2008-09**

For 2008-09, the Transportation Department added three new fees including the Clean Air Vehicle Permit Fee, Tree Service Administrative Fee, and Signal Design/Review Fee. Transportation non-development related fees were increased by 2.3% to maintain 100% cost recovery levels. Transportation development-related fees were proposed to decrease by 2.7% overall. The Department increased the following fees in 2008-09: the meter hood rental fee, (from \$20 to \$25), sanitary sewer wye installation (from \$2,536 to \$2,517 per installation), four general plan amendment model analysis fees, and tow away permit fees (\$25 to \$30), among others.

For 2009-10, the Transportation Department increased Transportation non-development related fees and Transportation development-related fees. The Department also approved a new fee structure for the sidewalk repair program that includes four new fees. The 2009010 fee increases

include increases to the following fees: sanitary sewer wye installation fee (from \$2,517 to \$2,626), freight loading zone permit fees, four general plan amendment model analysis fees, housing moving escort fees, new banner installation fees, tow away sign fees, new subdivision pavement marking fees, new subdivision traffic control signs, street name sign fees, signal design/review fees, and tree planting fees.

### **Office of Economic Development Fee Increases for 2008-09 and 2009-10**

For 2008-09 the Office of Economic Development doubled of the Foreign Trade Subzone application fee from \$1,500 to \$3,000 and increased the Paseo/Plaza Use Permit Fees (from \$50 to \$100 for permit amendments, from \$100 to \$200 for permit fees, and from \$175 to \$350 for series permit fees).

In 2009-10, the city increased the Paseo/Plaza Use Permit fees again (from \$350 to \$420 for the series permit, from \$100 to \$235 for the permit amendment fee). Two additional Paseo/Plaza use Permit fees were adopted: \$275 for events not to exceed 28 days, \$275 per each 28 day period after the first 28 day period. The private property event permit fee was increased from \$500 per event to \$850 per event for non-vehicle sales events.

### **Summary of What Other Cities and Local Governments Are Doing With Fees**

Cities and counties up and down the state are currently struggling with budget deficits due to the down economy and soaring public employee pension costs. Many cities have decided to increase fees, but a number of cities have decided to reduce fees to spur economic development activity in a down economy.

The California Building Industry Association reports that nearly 50 California local jurisdictions have deferred their fees from the time the building permit is pulled until the home is sold, which reduces the up-front costs to builders and helps make more projects pencil out financially.

Mick Pattinson, a San Diego County-based homebuilder and chair of the CBIA's Impact Fee Task Force, says that fee reductions or deferrals have sparked increased construction in many communities as the reduced costs made homebuilding projects financially feasible. For example, after Chula Vista in San Diego County deferred its fees in March, builders quickly obtained more than 80 building permits. During the first two months of the year, only two permits had been pulled in the city.

In the spring of 2009, the City of Fremont City Council voted to reduce development impact fees citywide by 10 percent through 2010, according to the Contra Costa Times. The one exception would be the Central Business District near the BART station, where fees would drop by 25 percent 2011. The city also gave developers the option to delay fee payments or finance the fees through a state program, according to the Contra Costa Times.

In July 2009, the Riverside County Board of Supervisors voted unanimously to lower development impact fees by 50 percent, which would reduce the cost to build a single-family home in the unincorporated parts of the county by about \$2,100, according to CBIA. The reductions will be in effect for one year beginning August 15. The Supervisors have also recommended to the Western Riverside Council of Governments a temporary reduction in the Traffic Uniform Mitigation Fee (TUMF) which was \$10,000 per new single-family dwelling.

In May 2009, the Corona City Council voted to cut development impact fees by 40% for the next two years in an effort to stimulate the city's economy and put people back to work, according to CBIA. The move was estimated to reduce the cost to build a new home by an average of \$7,700.

In September 2009, the Oceanside City Council narrowly approved a plan to give developers a break in paying development impact fees, according to the North County Times. The proposal, which was backed by the Building Industry of San Diego County, proposed to allow homebuilders to put off paying the fees for up to a year or until a project is ready for final city inspection, whichever comes first.

Builders of nonresidential projects could defer payment for up to two years or until their projects are ready for inspection. The proposal aims to jump start the construction industry by reducing the up-front financing costs of new projects, according to the North County Times. Oceanside City Engineer Scott Smith said deferring the fees would have little effect on the city because developers would still be required to pay them.

In May 2009, the City of Thousand Oaks City Council voted to eliminate its affordable housing fees until June 30, 2010, after hearing from its staff that builders cannot afford to pay the fees--\$9,000 per single-family home and \$25,000 per condominium or townhome—given the current market conditions, according to the California Building Industry Association.

In September 2009, staff for the City of Moreno Valley proposed reducing development fees for single-family and multi-family units by \$5,230 per unit to help address the significant drop off in development activity.

According to the California Building Industry Association, other communities in the state have reduced fees in recent months including: the City of Dublin in Alameda County; Oakley in Contra Costa County; Orange County and the cities of Irvine and Santa Ana; Beaumont and Menifee in Riverside County; San Diego County; and Woodland in Yolo County.

The City of Palo Alto City Council has decided to quadruple of new development fees for hooking up new developments to the city's water lines from \$4,750 in 2008 to \$19,900 in 2011, according to the San Jose Mercury News. The hike was recommended last year by consultants who found the city was not charging developers enough to recoup the cost of adding capacity to its water and wastewater systems.

In late July 2009, the City of San Carlos voted to increase the city's traffic impact fees by 9 percent to keep up with the rising cost of three congestion-relief projects, according to the Contra Costa Times. The city established the traffic fees in the fall of 2008 to ensure that developers were helping to offset the traffic impacts of their projects by paying for upgrades to the city's busiest intersections.

In August 2009, the City of Escondido voted to raise more than 170 fees, which amounts to roughly an 11% across the board increase that will increase city revenue by an estimated \$140,000 per year, according to a report by the North County Times. The bulk of the fee increases were in the fire and police departments.