

RESOLUTION NO. 12-13-10
CONSIDERATION OF APPROVAL OF RESOLUTION NO. 12-13-10,
ESTABLISHING SCHOOL FACILITY FEES AS AUTHORIZED BY
EDUCATION CODE SECTION 17620 AND GOVERNMENT CODE
SECTION 65995

WHEREAS, Statute AB 2926 (Chapter 887/ Statutes 1986) authorizes the governing board of any school district to levy a fee, charge, dedication or other form of requirement against any development project for the construction or reconstruction of school facilities; and,

WHEREAS, Government Code Section 65995 establishes a maximum amount of fees that may be charged against such development projects and authorizes the maximum amount set forth in said section to be adjusted for inflation every two years as set forth in the state-wide cost index for Class B construction as determined by the State Allocation Board at its January meeting; and,

WHEREAS, at its January 2012, meeting, the State Allocation Board increased the maximum fee authorized by Education Code Section 17620 to \$3.20 per square foot of residential construction described in Government Code Section 65995(b)(1) and \$0.51 per square foot against commercial and industrial construction and senior housing described in Government Code Section 65995(b)(2); and,

WHEREAS, the purpose of this Resolution is to approve and adopt fees on residential projects in the amount of \$3.20 per square foot as authorized by Education Code Section 17620; and,

WHEREAS, an agreement between the Acalanes Union High School District, the Walnut Creek School District, the Lafayette School District, the Moraga School District and the Orinda Union School District will split the \$3.20 per square foot fee at 30% for the High School District and 70% for the Elementary School Districts; and,

WHEREAS, the purpose of this Resolution is to approve and adopt fees on commercial and industrial development and senior housing projects in the amount of \$0.51 per square foot as described in Government Code Section 65995 (b) (2); and,

WHEREAS, an agreement between the Acalanes Union High School District, the Walnut Creek School District, the Lafayette School District, the Moraga School District and the Orinda Union School District will split the \$0.51 per square foot fee at 30% for the High School District and 70% for the Elementary School Districts.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Governing Board of the Acalanes Union School District as follows:

1. Procedure. This Board hereby finds that prior to the adoption of this Resolution, the Board conducted a public hearing at which oral and written presentations were made, as part of the Board's regularly scheduled October 3, 2012, meeting. Notice of the time and place of the meeting, including a general explanation of the matter to be considered, has been published twice in a newspaper in accordance with Government Code Section 54994.1. Additionally, at least 10 days prior to the meeting, the District made available to the public, data indicating the amount of the cost, or estimated cost, required to provide the service for which the fee or service charge is to be adjusted pursuant to this Resolution, and the revenue sources anticipated to provide this service. By way of such public meeting, the Board received oral and written presentations by District staff which are summarized and contained in the District's Developer Fee Implementation Study dated September 2012, (hereinafter referred to as the "Plan") and which formed the basis for the action taken pursuant to this Resolution.
2. Findings. The Board has reviewed the "Plan" as it relates to proposed and potential development, the resulting school facilities needs, the cost thereof, and the available sources of revenue including the fees provided by this Resolution, and based thereon and upon all other written and oral presentations to the Board, hereby makes the following findings:
 - A. Enrollment at the District school(s) presently exceeds capacity.
 - B. Additional development projects within the District, whether new residential construction or residential reconstruction involving increases in assessable area greater than 500 square feet, or new commercial and industrial construction or senior housing will increase the need for school facilities and/or the need for reconstruction of school facilities.
 - C. Without the addition of new school facilities, and/or reconstruction of present school facilities, any further residential development projects or commercial or industrial development projects within the District will result in a significant decrease in the quality of education presently offered by the District;
 - D. Substantial residential development, commercial and industrial development and senior housing is projected within the District's

boundaries and the enrollment produced thereby will exceed the capacity of the schools of the District. As a result, conditions of overcrowding exist within the District, which will impair the normal functioning of the District's educational programs;

- E. The fees proposed in the "Plan" and the fees implemented pursuant to this Resolution are for the purposes of providing adequate school facilities to maintain the quality of education offered by the District;
 - F. The fees proposed in the "Plan" and implemented pursuant to this Resolution will be used for the construction and/or reconstruction of school facilities as identified in the "Plan";
 - G. The uses of the fees proposed in the "Plan" and implemented pursuant to this Resolution are reasonably related to the types of development projects on which the fees are imposed;
 - H. The fees proposed in the "Plan" and implemented pursuant to this Resolution bear a reasonable relationship to the need for school facilities created by the types of development projects on which the fees are imposed;
 - I. The fees proposed in the "Plan" and implemented pursuant to this Resolution do not exceed the estimated amount required to provide funding for the construction or reconstruction of school facilities for which the fees are levied; and in making this finding, the Board declares that it has considered the availability of revenue sources anticipated to provide such facilities, including general fund revenues;
 - J. The fees imposed on commercial or industrial development and senior housing bear a reasonable relationship and are limited to the needs of the community for schools and are reasonably related and limited to the need for school facilities caused by the development;
 - K. The fees will be collected for school facilities for which an account will be established and funds appropriated and for which the district has adopted a construction schedule and/or to reimburse the District for expenditures previously made.
3. Fee. Based upon the foregoing findings, the Board hereby levies a fee to the amount of \$3.20 per square foot, subject to the 30% High School District and 70% Elementary Districts split, for assessable space for new residential construction and for residential

reconstruction to the extent of the resulting increase in assessable areas; and to the amount of \$.51 per square foot for new commercial and industrial construction or senior housing, subject to the 30% High School District and 70% Elementary School Districts split.

4. Fee Adjustments and Limitation. The fees adjusted herewith shall be subject to the following:
 - A. The amount of the District's fees as authorized by Education Code Section 17620 shall be reviewed every two years to determine if a fee increase according to the adjustment for inflation set forth in the statewide cost index for Class B construction as determined by the State Allocation Board is justified.
 - B. Any development project for which a final map was approved and construction had commenced on or before September 1, 1986, is subject only to the fee, charge, dedication or other form of requirement in existence on that date and applicable to the project.
 - C. The term "development project" as used herein is as defined by Section 65928 of the Government Code.
5. Additional Mitigation Methods. The policies set forth in this Resolution are not exclusive and the Board reserves the authority to undertake other or additional methods to finance school facilities including but not limited to the Mello-Roos Community Facilities Act of 1982 (Government Code Section 53311, et seq.) and such other funding mechanisms. This Board reserves the authority to substitute the dedication of land or other property or other form of requirement in lieu of the fees levied by way of this Resolution at its discretion, so long as the reasonable value of land to be dedicated does not exceed the maximum fee amounts contained herein or modified pursuant hereto.
6. Implementation. For residential, commercial and industrial projects or senior housing within the District, the Superintendent, or the Superintendent's designee, is authorized to issue Certificates of Compliance upon the payment of any fee levied under the authority of this Resolution.
7. California Environmental Quality Act. The Board hereby finds that the implementation of Developer Fees is exempt from the California Environmental Quality Act (CEQA).

8. Commencement Date. The effective date of this Resolution shall be December 3, 2012, which is 60 days following its adoption by the Board.
9. Notification of Local Agencies. The Staff is hereby directed to forward copies of this Resolution and a map of the District to the Planning Commission and Board of Supervisors of Contra Costa County and to the Planning Commission and City Council of the City of San Ramon and the Town of Danville.
10. Severability. If any portion of this Resolution is found by a Court of competent jurisdiction to be invalid, such finding shall not affect the validity of the remaining portions of this Resolution. The Board hereby declares its intent to adopt this Resolution irrespective of the fact that one or more of its provisions may be declared invalid subsequent hereto.

APPROVED, PASSED and ADOPTED by the Governing Board of the Acalanes Union High School District this 3rd day of October 2012, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

of
California

J. Richard Whitmore
Clerk to the Governing Board
Acalanes Union High School District
Contra Costa County, State of

CERTIFICATION AND VERIFICATION

I hereby certify that the forgoing is a true and correct copy of a resolution and acceptance entered on the minutes of a meeting of said Board of Education held October 3, 2012, and I declare under penalty of perjury that the foregoing is true and correct.

Dated: June 26, 2012, Danville, California.

of the
District of
California

John T. Nickerson
Secretary of the Board of Education
Acalanes Union High School District
Contra Costa County, State of