



# City of Emeryville

CALIFORNIA

## MEMORANDUM

**DATE:** February 7, 2017

**TO:** Carolyn Lehr, City Manager

**FROM:** Charles S. Bryant, Community Development Director

**SUBJECT:** Postponement Or Consideration Of Resolution Of The City Council Of The City Of Emeryville Approving A Transportation Facility Impact Fee Credit Of \$728,633.13 To Wareham Property Group, On Behalf Of ES West Associates, LLC, For The EmeryStation West/Transit Center Project

## RECOMMENDATION

Staff recommends that the City Council take from the table, and then postpone to an unspecified future date, consideration of the request of Wareham Property Group, on behalf of ES West Associates, LLC, for a Transportation Facility Impact Fee credit for providing public facilities in the EmeryStation West/Transit Center project that would otherwise be eligible for funding by the impact fee.

## BACKGROUND

On January 17, 2017, the City Council considered the request of Wareham Property Group, on Behalf of ES West Associates, LLC, for a credit and reimbursement of the \$728,633.13 Transportation Facility Impact Fee paid as part of the building permit fees for the EmeryStation West/ Transit Center project. The staff report, attachments, and resolution from the January 17, 2017 meeting are attached for reference. Following the staff presentation, public testimony, and City Council deliberation, the Council voted unanimously to table the item to an unspecified future time, pending further legal analysis by staff.

## DISCUSSION

Staff believes that it was the Council's intent to postpone this item to an unspecified future date, to allow staff time to perform further analysis. However, the motion was to "table" the item. Section 11.3.c of the Emeryville City Council Rules of Procedure (as amended by the Council on January 17, 2017) states:

"Motion to Table - (Undebatable and not subject to amendment.) The purpose of a motion to table is to temporarily bypass the item. If a motion to table is adopted, the item may be taken from the table at any time prior to the adjournment of the next regular meeting. If the item is not taken from the table in the time specified, the business of the item is killed."

Under this rule, the item must be decided prior to adjournment of the February 7, 2017 City Council meeting, or the “business of the item is killed”, meaning that Wareham’s request for a fee credit could no longer be considered. Staff does not believe that this was the Council’s intent, but rather that the Council intended to postpone the item to an unspecified future date. Section 11.3.b of the Emeryville City Council Rules of Procedure states:

“Motion to Postpone - A motion to postpone indefinitely is debatable. If such a motion is adopted, the principal question is lost. [i.e. any existing motion on the item is no longer valid.] Motion to postpone to a definite time is subject to debate and amendment as it relates to propriety of the postponement and time set.”

To remedy this situation, the item should be taken from the table at the February 7, 2017 meeting, and then postponed to an unspecified future date. Staff anticipates being ready to bring the item back at the March 7, 2017 meeting.

**APPROVED AND FORWARDED TO THE  
CITY COUNCIL OF THE CITY OF EMERYVILLE:**



Carolyn Lehr, City Manager

Attachments:

1. Item from January 17, 2017 City Council meeting.