



MAYOR & COUNCIL COMMUNICATION

Subject: Adoption of an Ordinance, and Development Impact Fee Rates and Fee Reports for the following Facilities: Streets, Parks and Recreation, Police and Fire (City Wide)

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Issue – On August 1, 2014, the City ceased collecting development impact fees. On September 9, 2014, the Mayor and Council held a public hearing on proposed fees, discussed a proposed Development Impact Fee Ordinance (Ordinance), and provided direction to staff regarding the adoption and phase-in of fee rates, and revisions to the Ordinance. Staff is bringing fee rates, Fee Reports and an Ordinance to the Council tonight for adoption, which would enable the City to resume collecting development impact fees beginning December 23, 2014.

City Manager's Office Recommendation – It is recommended that the Mayor and Council 1) adopt the proposed fee rates and Fee Reports, both of which include an effective fee schedule. The fee rates will be incorporated in the Ordinance; and 2) adopt the Ordinance, which sets forth regulations that will guide implementation of the Development Impact Fee Program.

Background – Development impact fees are used to help fund the cost of facilities needed to serve new development. Because they are considered a development regulation and not a tax, there must be a beneficial nexus between the development that pays the fees and the infrastructure built with the fee revenues. The fees can only be used to construct new facilities, or expand existing facilities to provide service to new development. They may not be used to repair, replace, operate or maintain existing facilities, or for administrative costs.

The City has had development fees in place since 2004 for Streets and Parks, and since 2007 for Police and Fire. Streets and Parks fees have been assessed within five benefit districts, which define the geographic sub-districts in which the fees are collected and spent. Fees for Police and Fire facilities have been collected and spent within a City-wide benefit district. From inception to June 30, 2014, approximately \$38.0 M has been collected in Streets fees, \$10.9 M in Parks fees, \$4.5 M in Police fees and \$2.4 M in Fire fees, for a total of about \$55.8 M.

The State legislature enacted wholesale changes to development impact fee regulations under Senate Bill (SB) 1525 in 2011 (Arizona Revised Statutes §9-463.05 as amended). To comply with SB 1525, the City is updating its impact fee program. Curtis Lueck and Associates (CLA) has been providing consultant assistance to staff since October 2013 to help bring the City's program into compliance.

Mayor and Council Actions – On August 5, 2014, the Mayor and Council adopted the Land Use Assumptions (LUA) and Infrastructure Improvement Plans (IIP) reports that form the basis for establishing statutorily compliant maximum fees. During a public hearing on the proposed fees on September 9, 2014, two representatives of the private development sector expressed concerns, with one voicing opposition. Two neighborhood representatives spoke in support of the proposed fees. Their comments are summarized in Attachment 1.

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Following the September 9, 2014, public hearing, the Mayor and Council directed the following:

- Adopt the IIP-based rates, with a phase-in period at the lower rates until July 1, 2016. This will ensure that developers entering the pipeline now pay the same or lower impact fee rates as they have in the past;
- Council will review the impact fee project lists each year as part of the budget/CIP process to ensure expenditures are benefitting new development and are statutorily compliant;
- Due to the challenges and costs created by the new impact fee statute, explore alternatives to infrastructure funding which could replace impact fees, including added construction sales tax and bonding capacity (both requiring charter change and voter approval);
- Staff to incorporate language into the final Ordinance that allows for flexibility in phasing-in to the full IIP-based fee rates in consideration of economic indicators.

Development Fee Reports, Fee Rates and Fee Schedule – Attachments 2-6 are the Development Fee Reports, which include fee schedules and fee rates. The fee rates identify the (maximum) IIP-based adopted fee rates and the Phase-in fee rates, and establish that the Phase-in fee rates will become effective on December 23, 2014 through, and including June 30, 2016. The full IIP-based rates will go into effect on July 1, 2016, unless this date is otherwise changed by the Mayor & Council.

Development Impact Fee Ordinance – Attachment 7 is the Development Impact Fee Ordinance, which has been revised to incorporate flexibility in setting future fee rates. The Ordinance repeals the existing impact fee regulations, replaces them with new statutorily compliant regulations, and establishes fee rates, a fee schedule, and an effective implementation date of December 23, 2014, (following the 75-day delayed effective period dictated by statute).

The Ordinance identifies a Development Impact Fee Administrator as “The person designated by the City Manager and authorized to make determinations regarding the application, administration, and enforcement of the responsibilities and duties under this Article.” Effective implementation of this program requires ongoing coordination among several departments, including but not limited to Budget and Internal Audit, Planning and Development Services, Finance, Transportation, Parks and Recreation, Police, Fire and Integrated Planning. Due to the enhanced monitoring, reporting, updating and oversight requirements built into the amended statute, the duties of the Impact Fee Administrator have been substantially expanded.

Next Steps – Upon approval of the Ordinance, fee rates and Fee Reports, the new fees will become effective on December 23, 2014. Integrated Planning staff will continue to work with other departments and the Manager’s Office regarding the transition to program implementation. In addition to identifying program start-up procedures, which are expected to be refined over the next several months, staff will move forward with creating a new position that will include administering the development impact fee program. Other potential duties may include

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evaluating, developing, and helping to implement alternative capital improvement project funding strategies that could replace impact fees.

Legal Considerations - Modifications to the City's development impact fee program are required to comply with the provisions of state law. Following a study session on June 3, 2014, the Council held public hearings on June 30, 2014, and September 9, 2014; and adopted reports such that we are now at the final step of the fee adoption process. Tonight's adoption of the Ordinance, fee rates and Fee Reports would enable the City to resume collecting development impact fees beginning December 23, 2014, upon the effective date of the Ordinance.

Budget Considerations – As the budgeting practice for development impact fees is to allocate actual amounts collected as of December 31st to projects in the *following* fiscal year, fees collected during January through December of 2015 will be allocated for projects beginning in FY 2017.

Respectfully submitted,

Martha Durkin
City Manager

MD/NEG/JH

OFFICE OF INTEGRATED PLANNING

Attachment 1: Summary of September 9, 2014, Public Hearing Comments

Attachment 2: Fee Report – Streets Facilities

Attachment 3: Fee Report - Parks and Recreation Facilities

Attachment 4: Fee Report – Police Facilities

Attachment 5: Fee Report – Fire Facilities

Attachment 6: Development Impact Fee Rates

Ordinance