

Impact Fee Advisory Committee Minutes December 12, 2006

Attendance:

Committee Members

Janet Donahue
Jinny Iverson
Dick Ainsworth
John Freer
Collin Bangs
Jerry Ford
Jim Galipeau
Mark Muir
Derek Goldman (excused)

Staff

Bruce Bender, CAO
Brentt Ramharter, Finance Director
Cindy Wulfekuhle, OPG
Amber Blake, OPG
Dave Gray, OPG
Mike Kress, OPG
Mike Barton, OPG
Dave Prescott, OPG

Other

Dwayne Guthrie, Tischler Bise Inc
Brent Campbell, WGM Group
Mark Bancale, WGM Group

Chief Administrative Officer Bruce Bender facilitated this initial meeting and offered to continue facilitating the meetings. He is not a member of the committee.

Introductions of the committee and staff in attendance were made.

The length of the meetings was determined to be approximately one and a half hours.

Mr. Bender reviewed Resolution 7172 and spoke about the Committee's role. The resolution was written by City Attorney Jim Nugent and is very detailed.

- ❖ Referring to the second Whereas in the resolution "applies only to the portion of an impact fee ordinance or resolution enacted or amended by a self-governing local government on or after April 19, 2005", the effective date of the Senate Bill. This is critical for the City, primarily because it is the main reason the City enacted an Impact Fee Advisory Committee. The City wants to consider an additional impact fee for transportation.
- ❖ Referring to the sixth Whereas in the resolution, Mr. Bender discussed the membership of the committee and said that Collin Bangs is the development community representative and Jim Galipeau is the certified public accountant. State law does not say how large an impact fee advisory committee should be, so it was decided by the City. City Council appoints two committee members and seven members are appointed by the Mayor with advice and consent of City Council. Some members will serve two year terms and others will serve four year terms. Once the initial staggered terms have ended, appointments will be four year terms.
- ❖ Referring to the Therefore in the resolution, Mr. Bender stated the main purpose of the committee is to "review and monitor the process of calculating, assessing and spending impact fees and advise the City of Missoula governing body with respect to these impact fee revenues".

Mr. Bender stated the purpose of this meeting is to review and monitor the process of calculating and assessing an impact fee, specifically a transportation impact fee. The City asks the Committee to focus on the new impact fee being proposed. Eventually the committee will help determine how impact fees will be spent. Growth in the Mullan Road area has generated questions about what the City is doing about the major arterials around the area. This issue was discussed by Transportation Policy Committee members and a decision was made to allocate federal and state transportation planning funds to hire a consultant. Tischler Bise was selected to do the study and Dwayne Guthrie with the firm has been working on the study for about three months.

Mr. Bender explained staff from City and County Public Works Departments have been working with the consultant to develop a transportation impact fee. This committee is the first step in getting feedback from the community. The draft impact fee has not been presented to the governing body; however, Ed Childers, as City Council President, has been part of the group working with the consultant. This is the first phase of a three phase process. The first phase is where the general process is discussed. The proposed ordinance will be presented to the elected officials for approval in phase two. The third phase is finalizing the ordinance in advance of its implementation.

Mr. Bender asked for questions about the committee's role or about the purpose of the meeting.

- ❖ Jim Galipeau stated he was not aware that the Committee was going to be addressing something that has been worked on for three months and asked if the Committee was expected to go through all the handouts and give advice in an hour. Mr. Bender said the information would be presented to the Committee during this meeting. Subsequent meetings will be held to discuss the information.
- ❖ Janet Donahue asked about the timeline. Mr. Bender said the consultant's work is mostly done and the City is now entering the public process phase. The goal is to present the study to the governing body for approval within the next three months. Finance Director Brentt Ramharter said the new fees would go into effect in the new fiscal year. Mr. Ramharter said the budget process starts around February and the City needs to know what the plan is by that time.
- ❖ Mr. Galipeau asked if the meetings are open to the public. Mr. Bender said yes. Meeting agendas are posted on the City's website in advance of meetings. It is a City committee so the meetings are recorded and the minutes are on the website.
- ❖ Mark Muir asked if the group could be convened on other occasions to consider impact fees other than the transportation impact fee. Mr. Bender said the purpose of this meeting is to go through how the transportation impact fee was formulated. Once that work is done, the Committee would be asked to review the proposed ordinance and monitor how the City spends the fee generated revenue. At a meeting later this year, a report on current impact fees and revenue collections will be presented to the Committee.
- ❖ Collin Bangs asked if the committee will formally recognize the sewer fee as an impact fee. Mr. Bender said the City does not consider the sewer fee an impact fee and that a detail of the definition of an impact fee can be presented at a later meeting.

Dwayne Guthrie presented a PowerPoint. He stated that WGM Group has been helping Tischler Bise with the cost analysis and the Mullan Road plan. Tischler Bise is a national firm

that do impact fee studies all over the nation. There are other communities in Montana working with transportation impact fees. Mr. Bender asked which communities. Mr. Guthrie said that Polson is doing water, sewer and parks and Gallatin County is doing road and fire.

Below are links to the PowerPoint slides. Under each link are specific points Mr. Guthrie made reference to or questions that were asked with the responses.

[Slides 1 – 5](#)

- ❖ Slide 2: LOS means Level of Service
- ❖ Slide 2: Mr. Galipeau asked if the 2/3 majority is by City Council and Mr. Guthrie said yes.
- ❖ Slide 3: Mr. Guthrie made note of the second bullet point. The impact fees do not go into the general fund. They have to be accounted for separately and can only be used for growth related capital improvements. Provides additional infrastructure specifically related to growth.
- ❖ Slide 4: A lane mile is one lane wide asphalt a mile long.
- ❖ Slide 4: Dollars for lane mile can include landscaping along road and sidewalks, the bike lane, engineering costs for designing the road and costs for traffic lights.

[Slides 6 – 10](#)

- ❖ Mr. Guthrie said most of the time was spent working on the Wye-Mullan Road area because it has some specific problems. He mentioned the [Draft Road Impact Fee Feasibility for the Wye-Mullan Area](#) dated December 9, 2006 that was handed out at the meeting and stated that the committee needs to look at the development projections that drive the project and Appendix A – Demographic Data.
- ❖ Slide 7: Map shows Mullan Road area and the airport/I-90 area. Fees collected would be earmarked for the Mullan Road area only, not for the regional travel area around the airport and I-90.
- ❖ Slide 8: Impact fees generally do not work well for the top end or the bottom end, but work well in the middle three classifications.
- ❖ Slide 8: Mr. Bangs asked who pays for the minor arterials now. Mr. Guthrie said what has been built up to now has been paid for by the private sector. The state has said there are major problems in the area and the city has to come up with a solution. Mr. Bender said if the minor arterial is a designated state route, the state maintains it. Mullan Road is a designated right-of-way, and is maintained by the state. Reserve Street was built with state and federal funds. Mr. Bangs asked if state funds were used the last time Mullan Road was improved and Mr. Bender said yes.
- ❖ Slide 9: Map: the development community has been making most of the improvements and will continue to do so on the internal system. Key improvements to Mullan Road itself, starting at Reserve Street going west are needed, including specific interchange improvements to facilitate traffic egress onto Mullan Road.
- ❖ Slide 10: WGM Group has provided cost estimates for nine specific projects, listed in priority order. Improvements for Mullan Road will start at Reserve Street and go west.

[Slides 11 – 15](#)

- ❖ Slide 11: shows the area south of Broadway, west of Reserve, north of the river and going as far as the city annexes. The map also shows the growth plan for the city and the second runway for the airport. The airport property is in gray.
- ❖ Slide 12: Mr. Guthrie pointed out the second bullet and explained that the parcels having direct vehicular access only from Broadway to Reserve Street are not going to be using the internal circulation system. An exemption from the impact fee is proposed for parcels with direct vehicle access from the internal circulation system. Also, parcels within the England Boulevard SID would be exempt because they are funding a similar type of improvement.
- ❖ Slide 12: Mrs. Donahue asked why the airport is not included in the growth. Brent Campbell said it is included in the assessment area and will be assessed, but it will be airport oriented and industrial, not residential.
- ❖ Slide 12: Mr. Bangs asked if there is any talk with the county to make it a joint project. Mr. Guthrie spoke of the last bullet, the urban portions will be annexed by the City. The County could require citizens outside of the city to pay the impact fee as they are using the improvements. Mr. Campbell said Phantom Hills is in the study area and have been assessed a fee by the County. Mr. Bangs asked if the study takes into consideration that Phantom Hills residents are paying. Mr. Guthrie said it was not taken into consideration on the cash flow as County revenue was not included in the calculations.
- ❖ Slide 13: Mr. Guthrie said the Mullan Road area is capturing about 25% of the development for the entire city. Projections show that 25% of city residents will be using Mullan Road by the year 2025.
- ❖ Slide 15: Mr. Bangs asked if the impact fee is adjusted depending on how far citizens are traveling. Mr. Guthrie said it is based on averages such as average household size and average trip generation rates.
- ❖ Slide 15: Mr. Galipeau asked if the calibration is per square foot of house. Mr. Guthrie said everything is based on housing units, not on size.
- ❖ Slide 15: HU is housing units and KSF is one thousand square feet for nonresidential.

Slides 16 – 20

- ❖ Slide 19: Impact fees are only covering about half the cost of the improvements.
- ❖ Mr. Bangs said when Tischler did the study in 2003, they said transportation impact fees could not be justified because the City didn't pay for transportation infrastructure. It was paid for by the state, the federal government or the money that came back to the City as part of the gas tax. What has changed? Mr. Guthrie said less state money is available for improvements now.
Mr. Bender said the state law has changed. State law says that transportation impact fees are now valid. He also said the approach is different because the City is looking at the plan base, which is looking at the future. The improvements have to be made and there is not going to be any federal money available. Mr. Campbell said previously, the way the gas tax was set up was that gas tax money at the state level was for road improvements to take care of existing deficiencies. Mrs. Donahue said the City is trying to prevent deficiencies in the future. This is a different approach that legislature has given local governments. Mr. Ramharter stated the Mullan Road area is an expensive part of town. Part of the money can come from impact fees, but other money will be needed also.

- ❖ Mr. Galipeau asked where the \$900,000 difference will come from. Mr. Ramharther said it will work like most projects. Some money might come from the transportation plan funding allocations and some from SID's. The Mullan Road area will be built incrementally based on the 18 year plan. Mike Kress said there will be bonding possibilities as well. Mr. Galipeau asked if \$11 million coming from impact fees and another \$9 million coming from same group of people through SID's. Mr. Guthrie said it will not come from the same group of folks.
- ❖ Jerry Ford asked how the City decides what projects the funds are used for. Mr. Bender said transportation planning and the Transportation Plan that is updated every four years establishes improvement priorities. Russell Street has been the priority for the last two plans. The City is going through the federal process right now. Mrs. Donahue asked if the projects are ranked and Mr. Bender said they are ranked in the transportation plan. The amount of total improvements prioritized in the Transportation Plan exceeds \$100 million, which is currently unfunded.
- ❖ Mr. Galipeau asked if impact fees are assessed to everyone in the area. Mr. Guthrie said only new development. Mr. Bancale said the existing homes will be assessed an SID.
- ❖ Mr. Bangs asked if the state was paying for the improvements to Mullan Road before, won't they still have money available to help pay for the project? The state is definitely getting more money from the gas tax with more people living in the area. Mr. Bender said that the urban fund is gas tax funds allocated to urban areas, but that money is currently funding the Russell Street project.
- ❖ Mark Muir asked as more of the area is annexed into the City and becomes urban area, is the gas tax based upon the number of miles of roadway? Mr. Bender said the local gas tax which is used for maintenance purposes only, based on a mileage formula and comes directly to the City.

[Slides 21 - 23](#)

Mr. Guthrie said the state law does not say which method has to be used, it only says governments have to have a Capital Improvement Program. He asked for committee input specifically on projections, appendix A of the Draft Road Impact Fee Feasibility for the Wye-Mullan Area, specific capital improvements and thoughts on a city-wide fee.

- Mr. Bangs said the new state law says when a new impact fee is created, the existing impact fees have to follow state law. Mr. Bender said the city disagrees with it. Mr. Bangs said he doesn't want Missoula to be the place it is tested in court; is there some way to get around that problem?
Mr. Bender said this impact fee will not affect the current ordinance in any way. The transportation impact fee will not be part of the ordinance, it will be a separate ordinance. It will be done with a different study, different analysis and different assessment.
Mr. Bangs suggested one of the first steps is to get the question answered without going to court. Mr. Ramharther stated that the Attorney General will not give an opinion if litigation is threatened.
Mr. Bangs suggested clarifying the law before it comes to a lawsuit. He stated that when the impact fee was brought up at the State Realtors Association and the Building Industry Association, they said the law states if a new impact fee is added, the old ones have to be fixed.

Mr. Bender said former Mayor Mike Kadas was engaged in the conversation and would argue that is why the specific language is in law, that the current impact fees would be exempt. He stated the law says “until the current impact fees are amended”. That is why the City has not changed the current enacted fees.

- Mr. Bangs stated he believes that some type of impact fee on the Mullan Road transportation is needed. Like all impact fees, it is going to take a long process to figure out what is fair. Who was paying for it up until now, what money is going to be available later, who should be paying for what? Maybe it shouldn't be just a city impact fee that could get mixed up with the law. Perhaps it should be a city-county fee set up separately. Mr. Campbell stated this is good feedback and very helpful.

Mr. Bender asked the committee how much time they would need to review the documents and then meet again. Mr. Guthrie said he will be available to come back to Missoula the later part of January.

Jinny Iverson asked if further discussion would result in comments or conclusions that would go to city officials. Mr. Bender said that the City would need the committee decision or recommendation. Individuals are invited to give comments as well. Ms. Iverson stated there could be conclusion that is the whole committee's recommendation with comments or considerations. Mr. Bender agreed.

John Freer asked what the definition of “public facility capital improvement” is. As transportation was the main focus of this meeting, what is the big picture for impact fees? Mr. Bender stated that impact fees are already in place for many public facilities such as Parks, Police and Fire. There is a [current ordinance](#) on those fees that will be shared with the Committee. Mr. Bender stated that after the Committee has dealt with the transportation impact fee, it would be brought together later this spring to talk about revenues that are collected on the impact fees and what facilities are designated to have fees for. Mr. Ramharter said under the new state law there is a definition of public facility which will be distributed to the committee.

Mr. Ainsworth asked what other impact fees the city foresees in the future. Mr. Bender said the county is looking at schools because of the Florence/Carlton schools are severely impacted by growth. The current impact fees and the transportation impact fee are the ones the City sees a need for.

Mr. Guthrie will attend the next meeting as the committee will have questions on his report. The following meetings would not require Mr. Guthrie be in attendance. Mr. Guthrie will be in attendance for the meeting with elected officials.

The next meeting is scheduled for January 23 at 4:00 pm in the City Council Conference Room, 140 W Pine.