

**Impact Fee Advisory Committee Minutes
August 26, 2010**

Attendance:

Committee Members	Staff	Other
Janet Donahue	Bruce Bender, CAO	
Dick Ainsworth	Brentt Ramharter, Finance Director	
John Freer	Steve King, Public Works Director	
Collin Bangs	Donna Gaukler, Parks Dept Director	
Jerry Ford		
Jim Galipeau		
Mark Muir		
Jinny Iverson		
Derek Goldman		

The [June 10](#) minutes were approved.

Checklist of Criteria for Expending Impact Fees – Janet Donahue

Brentt Ramharter said the criteria list was developed in line with the ordinance. This is an example of how things could be authenticated somewhat analytically. There needs to be an analytical base for growth. The study had a base set of criteria that was used. There were specs that Parks has been using.

The first seven criteria are out of the ordinance. Nine and 12 were added. Ten and 11 are administrative procedures for the Capital Improvement Program (CIP). There are definitions at the end for assistance. There is some generic criteria for Parks and worked with Steve King on Streets criteria.

Janet Donahue said she envisioned the checklist for the criteria being designed as an actual check off list that would require a yes or no answer. Mrs. Donahue asked about the location of the facility and Mr. Ramharter said it has to be in the city. It would help to have an address, a map, etc so that people know where it is. Mrs. Donahue said she was envisioning this checklist more as a picture with boxes to check. John Freer said this criteria list is great to have it all in one spot, and then be able to further develop a checklist. He saw this as a process of each project having the basic qualifying criteria. Once that is determined, the next step is what percentage is allocated to new growth and the last part would be a ranking process to prioritize the projects.

Mr. Ramharter asked the committee how familiar they were with the CIP ranking form and said that will help rank the projects. Mr. Freer said that is what the committee wanted and Mrs. Donahue said that is the kind of picture needed for a checklist. Mr. Ramharter said the information on the handout needs to be put on a CIP form. Mrs. Donahue asked for clarification on "capacity to be added by the public facility". Bruce Bender said if a lane is being added, it is adding capacity to the road system; if a structure such as an additional tennis court is being added, that is adding capacity. Mr. Ramharter said points one through three are capacity related.

It could be redefined, but if something that already exists and that project adds to it, it is adding capacity.

Jerry Ford asked for clarification on number seven. The second sentence says "useful life of ten (10) years or more". Is that facilities only or is it everything including vehicles? Mr. Ramharter said it is everything except where a few items that were grandfathered in. There were a number of facilities in the ordinance that didn't meet the ten (10) year useful life before the new law was written. The first police vehicle purchased after an expansion of the fleet, if it was contributed to growth, could be purchased with impact fees. This has not been done. The police component has been used toward the expansion studies. The fees that are collected for police and fire are very modest. Mark Muir said the only other thing impact fees has been used on besides the space needs analysis was for building a new radio facility on Waterworks Hill.

Derek Goldman asked for clarification of the CIP ranking criteria. Mr. Ramharter explained it is the process of scoring according to different criteria. There is a checklist on the form to determine if it is an essential project, a project that is legally mandated or there is no other choice, which has to be proven. It is difficult to get a yes, but if there is a yes on any of the first five items, it will get funded. Once that is determined, there is an analytical view of leveraging general fund tax dollars. If there are outside revenue streams of 50 percent or more, you get a score of two or three out of five. The CIP forms are on the city's web site so committee members could look at the forms.

Mr. Bender said the key issue to be discussed is the capacity issues. That does determine how much money would be allocated to a project. It has been a concern of some committee members of how the capacity is determined.

Mr. Freer said the basic qualifying criteria is set up in the document that was handed out. It has to a) meet the definition of the capital improvement; b) have a useful life of ten (10) years and c) has to increase the service. Going through a checklist like that and if there is a no, it does not qualify. The ranking should be easy as well. The challenge is how to quantify what portion is attributable to growth. Some of the problems he saw are with the phrases "necessary to service new growth" and "increase capacity as demanded by growth". Those are the statements that need to be quantified. Once the project is qualified, how is the growth component quantified? In the Hillview Way example, the questions would be: What is the current volume? Is that deficient? Based on the amount of developable land in the area, how much additional capacity will be added? Mr. Bender said the struggle with that is that is one way to determine the proportional increase, but the other aspect is if the additional feature adds capacity, is it not eligible to be expended for? If a third lane is added to a highway, the capacity is being tripled. You can look at the existing volumes and growth, and it could be decided that the third lane is needed. For example, Third Street is at capacity right now. There are 12,000 cars a day and it may be able to have another 6,000 for a total of 18,000 at full capacity. The problem with using a volume method is trying to project the future. The fact is that there is acknowledgement that a third lane is needed. The simple way to look at that is by saying the capacity of the system is being tripled, so one-third of the cost to improve that should be eligible for impact fees. Mr. Ramharter said that was the approach when Council Chambers was done. He figured out what was additional and used impact fees for that expansion. Mr. Freer used Hillview as an example of a different

version of what is an existing deficiency. There doesn't have to be an interpretation of the ordinance on where the money can be used.

Mr. King said the road features, such as a road or sidewalk, would have eligibility for some portion of the funding. Section 12 A i 3 C iii says "calculation of new development traffic generated from growth shall be based on the change of traffic volumes" must be based on the initiation of the ordinance in January, 2009. The new growth traffic can be calculated because there is base traffic and growth traffic and a ratio for what is attributable to new growth. Jim Galipeau said under that calculation, it doesn't give the same information for adding one lane for a total of three lanes. Mr. King said the road feature would not have to be defined, but the incremented amount of growth dollars could be justified. You could then look at lanes, bike lanes or sidewalks. Mr. Galipeau said he wants to be sure the ordinance is being followed. This section says "shall be based on the change of traffic volumes". He asked if that came from the ordinance and Mr. Ramharter said no, it was discussed with Mr. King. Mr. Bender said the last two pages of the document are staff recommendations. Mr. King said they were looking for an objective measure of the increment attributable to growth. Mr. Freer said he would ask that increase in traffic against how many additional people might use the bike lane be shown. Can that be quantified? Mr. King said it could be done by saying "of the new growth, % by car, % by ped, % by transit and % by bike, so a certain percentage of the new growth homes would contribute a certain amount of trips". It is a mode that is eligible and is the growth component of trip generation.

Collin Bangs said there is a starting date for the traffic, but how is it determined for parks? How is it determined to be an existing deficiency or change in lifestyle? The Ultimate Frisbee course is an example. It could be the same people who are playing Ultimate Frisbee that used to play soccer. Are there park studies that already exist? Mrs. Donahue asked if according to Section 12 A i 1 D "parking lot is expanded from current 100 parking spots to 125 spots" it was a deficiency that there has been for a long time. How was it determined that it was an increased use of the park and not a deficiency from the past? Mr. Ramharter said it was based on population because the population growth was already known. Donna Gaukler said one way to determine growth is by use numbers, bench marks that have been done with the Health Department. There is definitely an increased use in facilities, and a portion of that will be attributed to population growth. Sometimes people do choose to play two activities, but the majority play one activity. As the population ages, they do choose different activities, but there is still the younger population behind them playing the same activity. As the population gets larger, there are more kids participating in activities. Youth have continued to increase in the number counts.

Mr. Ramharter spoke about Linda Vista park after annexation. Mr. Galipeau said if there is a regional park that is annexed into the City, the same people are still using the same park. That is not growing the population in the City. Is the language in the ordinance broad enough to be construed in such a way? Mr. Bangs said if it is increased by 20 percent and half is through annexation and half is through new people moving in, there haven't been impact fees collected because the houses were already there. There is no money from that area to spend. There has to be some way to deal with the problems created by annexation, not growth. Mr. Ramharter said the typical annexation is new construction. Ms. Gaukler said they have not done any projects in Linda Vista, and if that development happened before annexation, the money would be spent

from the neighborhood park budget. Another example is the Emma Dickinson/Orchard Homes park. There was still a lot of development occurring in that neighborhood during the annexation process. There is a significant amount of impact fees used for LaFray Park. The funds were matched by a lot of other sources such as grants, CDBG and HB645. A large portion of parks impact fees are going to 44 Ranch. Almost all of the development happened after impact fees were adopted. The money had been collected there along with cash-in-lieu. The City collects about 35 percent of what the Tischler study said is eligible to be collected. When the partnership was initiated with the developer of the site, a development agreement was done so the developer would be reimbursed for their fees. Another place impact fees are being used is Pleasant View Park. There is another negotiation with the developer. The impact fee ordinance was in place during many phases of that development. Cash-in-lieu and impact fees were used. One way to save money and make the most of the impact fees is don't keep buying more land to build baseball fields only, figure out how the facilities can be multi-use. The last area where impact fees are being used is Fort Missoula Regional Park, a brand new facility. Impact fees will cover a small portion of the funds needed for this park.

Mr. Freer said per the definition of impact fees, it is on a pro-rated basis as a condition to the issuance of a building permit required to accommodate new development at city designated lots. They are not attributed to population growth. The committee is looking for a more precise way to determine the amount of the impact fee. According to the ordinance, the only way that can be used to show and quantify how much of the fee should be coming from impact fees is population growth. In all of the examples, there is clearly a ratio that gets created based on the numbers used, starting with example 12 A i 1 a, on "old playground has a capacity of 15 children". Is that capacity or deficiency? There is no clear and concise way to show that. If the population growth is 2 percent each year, for an item with a useful life of more than ten (10) years, every project could attribute at least 20 percent of impact fees to the project. If that is not enough money, the next step would be to adjust the percentage of what is collected.

Mr. Freer said every project now is completely subjective. With transportation, that number is achievable because there is the date of January 9, 2008 to now, this is the traffic volume. That is not available for parks. Mr. Ramharter said the transportation study took a different approach. The parks fee was done in incremental expansion. When that is tied into something general such as population growth, it is okay because that is the approach for that study. Mrs. Donahue clarified it is incremental expansion of growth. Mr. Ramharter said all the parameters were in the study that were baseline costs. Mrs. Donahue said the problem is that it does not say that at the beginning of the discussion it is based on incremental expansion of growth. Each example stands alone without first looking at the incremental expansion of growth and determining if it has occurred. In looking at an old playground, and there has been an incremental expansion of growth in that area, it makes sense. Then the number of kids has to be quantified.

Mr. Freer said there is a very vague definition of it rather than being tied to something like population. That would make it clearer to parks what type of impact fee funding would be available. Mrs. Donahue said based on the number of new houses coming into an area, there is a 1.2 kid population generation estimate. If there were 15 children served based on a certain population, and now there are a certain number of homes with the estimated number of kids, that number would be used for the capacity needed for the park. Mr. Ramharter said Ms. Gaukler was

doing a rooftop count and knew the fees being generated, so it was done by incremental growth. Ms. Gaukler said it was done by incremental growth because a fourth of a tennis court cannot be installed just because that was what the population grew. Mrs. Donahue said a fourth of the tennis court could be paid for by impact fees. Mr. Freer said if this was set up as a straight percentage, that would not have to be done for every project. Ms. Gaukler said if someone moves from one part of the city to the other, that is not new growth. This is figured now according to state law and the Master Park Plan on surface area and incremental growth, not strictly on population growth unless it is customer service related. Mr. Bender said building in a growth area is fairly manageable as it is directly correlated. The problem is when there is an existing community park like Playfair and figuring out what is deficient in those existing facilities. Mr. Freer asked how it is determined for service area of an existing facility and where can that impact fee money be allocated? Does it have to be collected within the half-mile area? Ms. Gaukler said the Master Park Plan defines the service areas of neighborhood, community and regional parks. State law defines the service area of cash-in-lieu.

Mark Muir clarified the potential size of the funding source could be restricted for neighborhood parks. This amount of money was collected for parks in the community, so up to that amount could be spent on a regional park. If it is broken down for funding of a neighborhood park, the money is restricted by that area and Ms. Gaukler said yes. In the Tischler study, a lot of the land and facility use were of community nature, not neighborhood. The process has evolved; the development community is more comfortable with the neighborhood concept. The study leaned more on the community concept. Mr. Freer said Parks is constricted by that. He asked if that is something that would be better facilitated if it was looked at from the state law so there weren't constrictions of where that money is used. If there is a percentage of population growth, the impact fees then become attributable to that incremental growth, there would be more discrepancy to where that goes. There are so many different park situations, how would it be determined to be capacity and what is deficient? Mr. Bangs said it would be useful to have the information about neighborhood and regional parks in the criteria. Mr. Bender said number nine addresses the key issues.

Mr. Galipeau said what he wants to see on the criteria checklist is specific information. For example, LaFray Park, here is why it qualifies for impact fees and here is how much it qualifies for. As a committee member, being able to see specifics and the information that is there, he can say yes or no.

Mr. Ford said there are two different parks in Playfair Park. The swimming pool is different than the rest of the park. Ms. Gaukler said it is all one park. Mr. Ford said the parking is being used differently because most of the cars are there for the swimming pool, not the park. The park part is a neighborhood park because most of the people using that walk to it. Mrs. Donahue said the whole park is a community park, not a neighborhood park.

Mr. Bangs said he would also like to have the increase of needs that have been created by change of habits clarified. One example is the skate park. Missoula did not have a skate park 20 years ago because there were no skateboarders. Ultimate Frisbee is another example. There will be more new sports invented. If a facility is being built for a new sport, that is not eligible for impact fees. If it is being expanded for a sport that has been around, it is. There should be a clear

definition in the checklist. It is not related to growth, it is related to a change in habit. Impact fees are only to be used on things related to growth. Mr. Bender said a portion of that can be related to growth. Mr. Bangs said once there is one skate park that is overused over time, a second park being created in another part of town with growth would be eligible for some impact fees. Mr. Bender said it is expanding the usability of an area, providing a new facility, a portion of it is related to growth. Mr. Bangs said a new skate park would have been built even if there was no new growth in the last ten years because a new demand showed up, not caused by growth, caused by a new habit. Mr. Bender said capacity is being added to the system, so some portion would be eligible for impact fees.

Mr. Bender said he understands a different format is needed for this checklist. It has to meet these criteria to be eligible and make it a yes/no checklist. Jinny Iverson said that is what she thought was going to be brought to the committee. The information they got is more of a guideline that will be used in conjunction with the checklist. Mr. Bender said a checklist could very easily be made out of the information.

Mr. Freer said the checklist needs to quantify what percentage is attributed to growth. Using the skate park as an example, a portion of that was attributable to growth. Not the entire skate park, only the part that is incrementally and directly linked to population growth. Mr. Muir said certain types of projects, such as the skate park which was not a preexisting deficiency because it didn't exist, did add capacity, so a portion is eligible for impact fees. That portion is what needs to be determined. A community project could be analyzed with a percentage of growth. Mr. Ramharter said there are two approaches. Is it an existing or new facility? With the new facility, there are bigger growth factors because the neighborhood is newer. With the existing facilities, they will not be eligible for a lot of impact fees. The parameters will be different. Mr. Muir said the ranking aspect of it would come in with respect to the competing interests between the different types. The neighborhood park would compete for a portion of money that is available, but it is also competing against the regional park that looks at the entire fund.

Mr. Galipeau said Ordinance 3250 does a good job describing what will be collected, how much, etc. but does a poor job explaining how to spend it. Is there any other guidance to go by? He read from the ordinance "ensure new development benefits from the provision of the public facilities provided with the proceeds of development impact fees, to ensure that impact fees collected pursuant to this Chapter are expended only on public facilities the demand for which is generated by the new development against which the fees are assessed". That does not describe what the committee should be doing with the fees. Mrs. Donahue said that is a positive because it gives the committee the chance to develop that. Mr. Galipeau said it gives the committee more leeway than they are giving themselves credit for. Mr. Goldman said state law covers more of the expenditure of what qualifies and Mr. Ramharter said it is a really basic level.

Mr. Goldman wanted to clarify the math on some of the examples on the handout. In section 12 A 1 A, the playground needs to be expanded to accommodate 45 children due to growth, why wouldn't impact fees be able to pay 100% of the costs? Mr. Ramharter said a playground is a complete redo because the equipment is aged. In section 12 A 1 D, adding 25 spots, why would impact fees not pay 100% of the cost of that project. Mrs. Donahue said there is a redesign on the area, and generally there would not be just 25 spaces added. There would be a reconfiguration of

the whole area. Mr. Ramharter said it is a redo because it would be resurfaced. Mr. Muir said the first 100 spots would be repairs and then 25 spots and being added.

Mrs. Donahue said the checklist needs to have three stages. Ms. Iverson said the document would complement the checklist. Mrs. Donahue said it would be like the CIP book that has the narrative that describes the process.

Other discussion

The next meeting is scheduled for September 30 at 4:00 pm in the Mayor's Conference Room.