

STAFF REPORT

To: Mayor Harris and the City Council
Fr: Ron Chandler
Dt: February 21, 2013
Re: Resolution that defines the term "Development Activity"

Based on the tenor of your discussion during your last meeting, I prepared the attached resolution. Under this resolution the resident on 2100 North will be required to pay the impact fee, unless adjusted by you, to connect to the City's water system because he creates an additional demand on that system.

Section 11-36a-402(c) of the State code requires a local political subdivision to contain the following in the ordinance that enacts the impact fees.

11-36a-402(1)

(c) a provision authorizing the local political subdivision or private entity, as the case may be, to adjust the standard impact fee at the time the fee is charged to:

(i) respond to:

(A) unusual circumstances in specific cases; or

(B) a request for a prompt and individualized impact fee review for the development activity of the state, a school district, or a charter school and an offset or credit for a public facility for which an impact fee has been or will be collected; and

(ii) ensure that the impact fees are imposed fairly; and

North Ogden City Ordinance No. 6-97 includes the following provision.

16.24.070 Adjustments

The City may, upon a property showing, adjust the standard impact fee at the time the fee is charged to:

A. Respond to unusual circumstances in specific cases; and

B. Insure that the impact fees are imposed fairly; and

C. Adjust the amount of the fee based upon studies and data submitted by the developer which are approved by the City after review of the same; and

D. Allow credits as approved by the City for dedication of land for improvement to, or new construction of, public facilities providing services to the community at large, provided such facilities are identified in the capital facilities plan and are required by the City as a condition of approving the development activity. No credit shall be given for project improvements as defined in the Act.

The attached resolution more clearly defines when the City imposes impact fees and puts it in line with the State Code. Ordinance 6-97 allows you to adjust the impact fee if the circumstances permit it.

In a recent discussion I had with a Company that prepares impact fee and capital facilities reports, I was told that a City Council should identify the funds that will be used to replace impact fees that have been adjusted or waived. This argument is based on the equity principle of impact fees.

Impact fees are established to maintain a certain level of service for existing and future residents. Impact fees are used to upgrade or build new infrastructure and the upgraded or new infrastructure provides new and existing residents with the same level of service the existing residents received before the new development activity. If the City waives the impact fee for new development activity, it will, in theory, either reduce the level of service for existing residents or require the existing residents to pay for the improvements necessitated by the development activity.

Another example of the equity principle wherein a City can adjust or waive an impact fee occurs when a developer or individual installs the infrastructure that is necessary to provide existing and new residents with a certain level of service.