

FEE COMMITTEE MEETING MINUTES

Zoom Meeting

June 17, 2020, 9:00 a.m.

Present:

Fee Committee: Councilors John Tabor and Petra Huda

Staff: Karen Conard, City Manager, non-voting member
Andrew Purgiel, Deputy Finance Director, non-voting member

Staff: Peter Rice, Director of Public Works and Facilities
Benjamin Fletcher, Parking Director
Juliet Walker, Planning Director

Resident: Marc Stettner

Deputy Finance Director Purgiel reviewed the standard Fee Committee annual meeting schedule and summarized the number of meetings taken place in Calendar Year 2019 (there were two).

Deputy Finance Director Purgiel read the required COVID-19 meeting statement in order to hold the meeting on Zoom, above listed members Councilors Tabor and Huda, City Manager Conard and Deputy Finance Director Purgiel were requested to state their name, location and whom they were with.

A motion was made by Councilor Tabor and seconded by Councilor Huda to accept the March 12th, 2020 meeting minutes. The minutes were unanimously accepted by both Council members.

1. Impact Fees:

The meeting was turned over to Planning Director Walker to discuss impact fees. The Planning Director summarized that a request was made at the March 2020 meeting by the Council to have the topic reviewed by the Planning Board, Legal Department and the Fee Committee. The Planning Board reviewed it in April 2020 who then requested a report back from staff (including the legal department) which was presented to the Planning Board in May 2020. At that time, after discussion the planning board voted to recommend the City Council not establish impact fees. The Planning Board also recommends that if the Council were to still vote in favor of impact fees at this time, that Council requests the City Manager work with City Staff to develop a scope of work, estimate of costs and to work with a qualified expert to create an impact fee analysis and develop a recommended methodology to pursue impact fees.

Planning Director Walker provided a quick overview of the memo given to the Fee Committee (as well as the Council). She stated that there are state RSA's that guide how impact fees are to be enacted as well as how to have a methodology adopted (how they are calculated). There must also be an impact fee ordinance in place to enact impact fees which is not fully in place due to lack of methodology developed.

Impact fees are used for capital development new services tied directly to the development they are connected to and cannot be used to correct deficiencies. She also stated the fees must be expended within six years, which can prove a challenge. If not expended in time they must be returned to the developer. Planning Director Walker outlined Portsmouth's normal operating procedure with handling such development impacts, and will negotiate mitigation fees for specific items with developers which are not tied to a time frame.

The memo provided summarizes the methodology that needs to be developed to implement impact fees and must be a proportional share of what that development would impact that capital cost. The methodology must stay updated and will involve staff costs to track and maintain them as well as consultant costs (the consultant would help keep the fees legally defensible). Planning Director Walker reminded the committee that these fees can only go to the development of new capital items and cannot be used to maintain or repair existing structures/items. Types of facilities that are eligible for impact fee monies include Water Treatment and Distribution Facilities, Wastewater Treatment Facilities, Sanitary Sewers, Stormwater, Public Rights of Way, etc., but only for new infrastructure.

Planning Director Walker spoke a bit about exactions vs impact fees and the memo provided included a summary of mitigation fees that have been collected over the past few years.

City Manager Conard asked a question regarding the history of impact fees and the City (if any discussion had taken place). Planning Director Walker stated it had been discussed numerous times and stated that thus far mitigation fees it had been preferred due to the less stringent methodology. Planning Director Walker stated that prior councils had requested information and legal Council on impact fees and had, thus far, come to the conclusion to continue with the mitigation fees. Planning Director Walker also stated that the City is in a good negotiating position, due to its desirability, to work with developers on mitigation fees and other City improvements.

Councilor Tabor asked if any of the impact fees can go to offset operating costs. The Planning Director stated that they cannot. He also asked if they could only be used on future capital items and ones that are directly driven by that development. Planning Director Walker agreed. Councilor Tabor stated a concern is the low residential development amount (Planning Director Walker confirmed it was approximately 800 units over 10 years which is not considered a lot). Councilor Tabor questioned what needs we could demonstrate with this level of development and stated that none of this growth would warrant new capital structures to the best of his knowledge. Planning Director Walker agreed and stated we have capacity to support growth and other financial items in place (such as water and sewer fees) to fund capital items needed.

City Manager Conard stated in previous employment she had worked in communities with a less thoughtful and less managed Capital Improvement Plan and believes this makes a big difference.

Public Works Director Rice spoke to the water and sewer fees, specifically to the Capacity Use Surcharge for the Water and Sewer system that is similar to an impact fee, which is useable as a "buy in" fee. This fee acts as an impact fee but with less of the restrictions. Public Works Director Rice also stated that if a company doesn't have the ability to hook into the system it is their responsibility to pay for the upgrade to connect to the City's system. The rates paid after that include costs to do extensions. These costs are legally defensible and more flexible than a standard impact fee.

Councilor Huda stated that she believed the City did once have impact fees in place. She also stated that she believed they were had been eliminated due to an economic downturn to help attract developers into the City. Planning Director Walker stated she had no knowledge of any fees ever being in the city and no knowledge as to why the impact fee item was in our current ordinance. Deputy Finance Director Purgiel stated in his 24+ year tenure with the City that impact fees had never existed. He stated they once had an "unmet parking needs" fee that followed the same six year time frame, and it was eliminated approximately 10 years ago.

Planning Director Walker confirmed that, to the best of her knowledge, no impact fees were enacted during City Manager Bohenko's tenure.

Public Works Director Rice spoke to a past employment experience where impact fee monies were not properly tied to a specific capital item and had to be returned. He stated he believed historically impact fees were able to be used more liberally until law suits (including one in Londonderry) brought to light more of the legal understanding of impact fees and states that currently communities are held much more accountable.

Councilor Huda shared concerns she had heard from the campaign trail regarding new developments that residents believed put increased strain on current services (roads, sewer, water, staff, etc.) and required more investment in equipment. She also asked if we did implement this structure would we eliminate the fees negotiated by the Planning Board. Planning Director Walker stated that both could exist. She reminded the group that the Planning Board had not been in support of the impact fees. The Planning Director also stated that this was the reason, if the process was to go forward to adopt impact fees, for hiring a qualified expert to do an analysis of the benefits to the City of such fees. She also stated that developments already pay for their impacts in many ways as previously discussed such as the water/sewer fees spoken to by the Public Works Director, taxes, and mitigation fees and projects.

Councilor Tabor spoke to many of the impacts felt by the community were operating expenses but those cannot be paid for by impact fees. He also showed concern that enacting impact fees would go against and "put them at odds" with the planning board. Planning Director Walker stated that they would do as the council requested but reminded the group that the most important point is that these fees would have to be legally defensible and proportional.

After discussion it was suggested by Councilor Huda that a report back was done to re-affirm for the council and residents the benefits of the current city's fee structure for new developments.

It was agreed upon by general consensus that a report back (or a "mini analysis") would be done by the Planning Director and would include examples of current or recent projects and the fees and projects impacted and funded by these projects. A timeline was not established for this report back.

Councilor Tabor suggested also reviewing the fee structure proposed by Councilor Esther Kennedy. Councilor Huda requested this information be included in the report back to the City Council.

2. Motorcycle Parking Fees for the Space Located at the Corner of Pleasant Street and Congress Street in front of the Tuscan Market Restaurant :

Parking Division Director Ben Fletcher spoke to the history of this motorcycle space. He stated that the single space had been voted in by the City Council approximately two years ago and was split into five equal (smaller) spaces for motorcycles during a specified duration (the summer months) and established that motorcycles will be given a reduced fee but also stated none was established. Mr. Fletcher spoke to the challenges of no established rate causing conflict with enforcing parking in those five motorcycle spaces. He spoke to the current initiative being to establish the reduced motorcycle rate as well as establish the additional resident discount to this motorcycle rate. The rate is currently \$2.00 per hour. Mr. Fletcher said that he was recommending a 25% reduction to that rate (50 cent reduction) for a non-resident with an

additional 50 cent reduction (a 50% reduction overall for a resident motorcycle parking spot user).

Deputy Finance Director Purgiel asked the Parking Director if this fee was to each of the five (5) smaller-sized spaces and the Parking Director affirmed this set-up.

Councilor Huda asked Parking Director Fletcher to clarify if the rates for both resident and non-residents. She also asked for clarification regarding one person's paying for the entire space versus each individual motorcycle paying. Mr. Fletcher stated this was an established practice if motorcycles were to park multiple bikes in other standard-sized parking spots throughout the City. If one of the motorcycles in the space had paid for and displayed a ticket on their "dash" the spot was considered covered until that particular motorcycle left.

Deputy Finance Director Purgiel asked to clarify if Parking Director Fletcher was looking to change the current ordinance to establish this new parking rate for motorcycles and he confirmed that was his intent.

A motion was made to by Councilor Tabor and seconded by Councilor Huda to allow Mr. Marc Stettner, a resident, to speak to this matter. A roll call vote was taken and was unanimous.

Mr. Stettner spoke to the original ordinance and his recommendation for changes to the ordinance including verbiage changes that speak to tying a specific fee instead of typing it to a reduction of the standard parking spot. Mr. Stettner feels it is not fair to tie the motorcycle fees to the parking fees and indicated other cities including Boston, MA and Portland, ME do not tie their motorcycle fees to the parking fees (if they exist). He referred to how Boston and Portland give up prime parking (and greater amounts of parking) to motorcycles. He also spoke to how these motorcycles could bring business to downtown restaurants and stores.

Mr. Stettner indicated that he felt that the rates being proposed were far too high and were significantly higher than that of Boston (he stated 600%). Mr. Stettner also spoke to New Hampshire RSA law that required parking meter fees be "reasonable" (the RSA number was not referenced). Mr. Stettner felt that as Boston was a nearby city with a significantly lower rate, that he felt the proposed fees were not reasonable. Mr. Stettner also reiterated the fact that many cities don't charge for motorcycle parking. Mr. Stettner argued that motorcycle owners also pay registration fees (similar to those paid by vehicle owners) and that a portion of those fees go to the City and that the residents are paying but no one else is. Mr. Stettner showed concern that the use of these fees does not go to their specific purposes, which he cited is also controlled by another RSA (number not named). Mr. Stettner suggested potentially setting a 7 hour time limit on the spaces or allowing motorcycles to park for free at the Foundry Garage. He also believes a 50 cent charge for these specific motorcycle spaces would allow residents to park for free (through the resident app discount) while non-residents would pay a nominal fee.

Councilor Tabor asked Mr. Stettner if he had circulated the idea at all. Mr. Stettner indicated he had requested through the prior council a Blue Ribbon Committee regarding motorcycles in Portsmouth that never came to fruition. He stated that he had spoken to frequent motorcyclists in the area and indicated that although many were not up to date on the topic that they had indicated they may protest by parking one motorcycle in a standard car parking spot (instead of five) to protest the higher fees.

Councilor Huda says she indicates she feels this spot is an extremely prime location that a car would be exceptionally desirable as a car parking location. She indicated support for the Parking Director's suggested fee amounts and ordinance.

Parking Director Fletcher spoke to the governance of the spaces by the ParkMobile app which for non-residents has a fee but for the residents the fee is currently covered by the City (giving the residents not only receiving a 50 cent discount but does not pay the 35 cent fee for the transaction). Parking Director Fletcher indicated that giving residents the full fee discount would still leave the City responsible for this transaction fee of 35 cents to the vendor, putting the City in the red for this specific spot.

At this point in the meeting (9:56 a.m.) City Manager Conard indicated that she had to leave the Zoom meeting to attend a 10 a.m. conference call with the Governor. City Manager Conard asked if the Council would want to do a verbal report back at the next City Council meeting and both Councilor Tabor and Huda indicated that they would. City Manager Conard left the meeting at 9:57 a.m.

Councilor Tabor spoke to his agreement with Councilor Huda in support for the fees proposed by Parking Director Fletcher. He also stated that the City has a set of Parking Principals that are meant to encourage turn-over in the parking downtown and he feels that free parking for residents would not accomplish this goal. Councilor Tabor also indicated his discomfort with giving a special discount to only one type of user of the system.

Mr. Stettner indicated he would wish for a compromise of 50 cents for residents to cover the transaction fee. The councilors both indicated that they would prefer the fee structure as proposed by the Parking Director.

Mr. Stettner asked if the full council had to vote on the fee structure and Deputy Director Purgiel indicated it would and that this would include a verbal report from the Fee Committee members. Mr. Stettner requested clarification on the process and timeline to deliver this to the council.

Motion to adjourn made by Councilor Huda and seconded by Councilor Tabor.

The meeting was adjourned at 10:04 a.m.