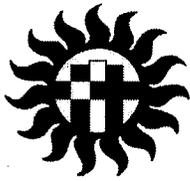


Follow Up Concerning Major Roadway, Drainage and Public Safety Impact Fees



City of Las Cruces[®]

PEOPLE HELPING PEOPLE

TO: Terrence Moore, ICMA-CM – City Manager

THRU: Michael D. Johnson, P.E. – Public Works Director *MJ/82*

FROM: Loretta M. Reyes, P.E. – Engineering Services Administrator *[Signature]*

SUBJECT: February 17, 2010 City Council Work Session
Major Roadway, Drainage, & Public Safety Impact Fees – Service Area
Recommendation Follow-up

DATE: February 12, 2010 **File No.:** PW 10-91

It has become increasingly important that major road, drainage, and public safety infrastructure be in place to meet the needs of our growing community. One financing option under consideration is impact fees. Before impact fees can be established, it is necessary to conduct a fee study. The fee study will establish reasonable fees that will enable the City to finance improvements that will support an established level of service and will recommend a level of service that may be reasonable to support future growth.

Duncan Associates presented the draft *Capital Improvement Plan for Major Road, Drainage and Public Safety Impact Fees (IFCIP)* to the City Council at the March 9, 2009 work session. For clarification, the IFCIP is the study that documents the calculation of the proposed impact fees for major roads, drainage, and public safety. The City Council made several comments, requested additional information, and held a second work session on April 8, 2009. The City Council further discussed the IFCIP and the consultant and staff addressed comments from the March 9, 2009 work session as well as the following issues: establishing one service area with two assessment districts; removal of state roads from the major road inventory; priority corridors; and, phasing of the fees. Moreover, additional information was provided to the City Council so that they could provide direction on how to proceed with the implementation of impact fees for major road, drainage, and public safety, with most of this discussion focused on residential development. To address the affect of the major road, drainage, and public safety impact fees on commercial development, the City Council held a third work session on May 6, 2009, at which the City Council had additional comments and questions for staff and Duncan Associates.

Duncan Associates reviewed and compiled the information collected from each work session discussed above into a list of service area/geographic options as follows:

- City-wide Fees

- Two-Tier Road Fees
- “Growth Area” Only Fees

Before the IFCIP can be finalized, it is necessary to choose one of these service area/geographic options on which to base the major road, drainage, and public safety impact fees. Duncan Associates prepared a summary of the above listed options (see attached Memorandum dated November 16, 2009). This document summarizes each service area/geographic option with a table listing the actions that will have to be taken in order to move forward with each option (e.g., Do the land use assumption have to be revised?, etc.). The summary provides information in a concise format for the CIAC and City Council to use in making their decision on which option to use to calculate the impact fees in the IFCIP document.

Staff presented the summary document to the CIAC for the first time on November 19, 2009. The CIAC further discussed the options and the summary document at their December 17, 2009 meeting. The CIAC made a recommendation to accept and support Option 3: “Growth Area” Only Fees.

At the January 11, 2010 work session, Duncan Associates presented the information in the summary document. At this work session, the City Council reviewed and discussed the service area/geographic options and the information in the summary document. The City Council provided additional comments and requested additional information including, but not limited to, how the fees were calculated; the possibility of giving credit for infrastructure that has already been built; and, what the fees may be for each service area/geographic option. The resultant consensus from the City Council was to schedule this topic for the February 17, 2010 work session.

At the February 17, 2010 work session, City staff and Duncan Associates will present information that will address the City Council comments from the January 11, 2010 work session. The City Council will have the opportunity to review and discuss this information, the service area/geographic options and other information presented in the summary document before providing a final recommendation with direction on how to proceed.

Thank you for your time. I am available at your convenience to discuss this issue. If you have any question or require additional information, please do not hesitate to call me at 528-3136 or email me at lreyes@las-cruces.org.

Attachment

MEMORANDUM

TO: Loretta Reyes, Engineering Services Administrator, City of Las Cruces, NM
FROM: Clancy Mullen, Executive Vice-President, Duncan Associates
DATE: November 16, 2009
RE: Impact Fees – Geographic Options

This memorandum is intended to provide background information to the City of Las Cruces (“City”) on various geographic options related to the proposed impact fees for major roads, public safety and drainage.

Basic Concepts and Legal Framework

There are two basic kinds of geographic areas in impact fee systems: assessment districts and benefit districts. An assessment district is an area that is subject to a single, uniform impact fee schedule. A benefit district is an area where fees are spent within the same geographic area in which they were collected.

The New Mexico Development Fees Act does not mention assessment or benefit districts. Instead, it has a number of provisions relating to “service area,” which is defined as “the area within the corporate boundaries or extraterritorial jurisdiction of a municipality or the boundaries of a county to be served by the capital improvements or facility expansions specified in the capital improvements plan designated on the basis of sound planning and engineering standards.” Provisions relating to service areas include the following.

- o Land Use Assumptions must be developed for each service area.
- o The impact fee study (Capital Improvements Plan) must identify existing improvements, existing level of service and existing deficiencies within each service area.
- o Impact fees collected within a service area must be accounted for by service area, and spent on improvements attributable to growth in the service area (but not necessarily physically located in the service area).

Note that the Development Fees Act does not explicitly require that a service area function as either an assessment district or a benefit district. For example, the City could define the entire city as one service area/benefit district, while dividing it into two assessment districts, to reflect the different impacts of development in different areas on the same common set of facilities. On the other hand, the City could define the entire city as a single service area/assessment district, subject to a single fee schedule, while dividing it into multiple benefit districts. Other configurations are also possible.

Keeping this conceptual framework in mind, several geographic options can be analyzed for the City’s proposed major road, public safety and drainage impact fees.

Option 1: City-Wide Fees

Under this option, all three fees would apply uniformly throughout the city. The entire city would be designated as a single service area for each of the three impact fee facilities, serving as both an assessment and benefit district. This is consistent with the Land Use Assumptions that have already been developed and approved on June 19, 2008 by the Capital Improvements Advisory Committee. It is also a reasonable approach, since the facilities under consideration tend to be integrated systems that provide benefit city-wide. Major roadway facilities are a network of arterials and collectors that facilitate cross-town and regional travel. Public safety facilities are part of an interdependent network that provides service, and service redundancy, city-wide. Stormwater facilities are major conveyances that collect regional runoff. Each of these facility types tends to provide a uniform level of service, and is managed as part of a city-wide service delivery system.

A single, city-wide service area is the most common for medium-sized cities like Las Cruces. Comparison with other cities in New Mexico shows that only Albuquerque has multiple service areas. Other cities have service areas of a size comparable to that proposed for Las Cruces. A multitude of small service areas can make it difficult to collect sufficient funds in any one service area to be able to fund major improvements.

NUMBER OF IMPACT FEE SERVICE AREAS		
Major Cities in New Mexico		
City	Square Miles	Number of Service Areas
Albuquerque	180.6	5
Las Cruces	76.4	1
Santa Fe	73.4	1
Rio Rancho	37.3	1

Source – Duncan Associates. Square miles is for 2000, except for Las Cruces which is 2008. Albuquerque service areas include five for drainage, two for public safety and eight for roads.

Option 2: Two-Tier Road Fees

The City Council has expressed an interest in an alternative major road impact fee assessment methodology, where the impact fee is differentiated by location – a lower impact fee in the core area of the city, which has largely infill development potential, and a higher fee outside of the infill area, where large-scale development can occur. In January 1998, the City Council adopted the Infill Policy Plan, which was intended to “provide guidelines and incentives for the development of vacant and possibly underutilized parcels or those parcels ready for redevelopment with Las Cruces’ urban core area.” The Plan defines the infill area as the area bounded by I-25 on the east, University Avenue on the south, Valley Drive on the west and Hoagland Road, Alameda Boulevard, Three Crosses Avenue and North Main Street on the north (see figure on following page). This area could serve as an assessment district for major road impact fees.

INFILL AREA MAP



Under this approach, there would be a single, city-wide service area/benefit district for major road impact fees, but two assessment districts. Public safety and drainage impact fees would apply city-wide, but there would be two major road impact fee schedules. Lower fees would be assessed in the infill area and higher fees in the rest of the city (the area of the city outside the infill area will be referred to as the “growth area”), based on data documenting the differences in travel behavior. Because infill residents have shorter trip lengths and more frequently use other modes of travel, they have less impact on the major road system than development in the growth area. Consequently, under this approach, rather than everyone paying a city-wide average road impact fee, development in the infill area would pay a lower-than-average fee, and development in the growth area would pay a higher-than-average fee.

Since the entire city would be defined as the major road impact fee service area, there would be no need to revisit the city-wide Land Use Assumptions that have already been developed. In the absence of projected land use data for each of the two assessment districts, total revenue for the two-tier approach could not be calculated precisely. However, since most new development will be likely to occur in the growth area, the growth fee schedule could be applied to city-wide land use projections to approximate future major road impact fee revenues.

Option 3: “Growth Area” Only Fees

There is no requirement, either in the *Development Fees Act* or national case law, for impact fees to apply to all areas of a local government’s jurisdiction. Some communities charge impact fees only in areas that are experiencing substantial growth, while exempting older, more developed areas where most of the infrastructure is already in place. Under this option, no fees would be collected in the infill area. To accomplish this, the service area would be defined as the entire area within the city limits, except for the infill area (this is the same as the “growth area” in Option 2). The “growth area” service area would function as an assessment district, within which a single impact fee schedule would apply to all new development. It is recommended that the service area also function as the benefit district.

The change from a city-wide service area in Options 1 and 2 to a “growth area” service area in Option 3 has some significant implications. The *Development Fees Act* requires that land use assumptions be prepared for each service area, and that an inventory be prepared of existing capital facilities located with each service area. Complying with these provisions would require substantial revisions to the Land Use Assumptions and Capital Improvements Plan. Impact fee funds collected in the “growth area” would not be used to make improvements in the infill area.

Summary

Three options have been presented for the geographic structure of the proposed major road, public safety and drainage impact fees. Salient characteristics of each of these options are summarized below.

- **Option 1: City-Wide Fees** is the standard approach that was taken in the original draft of Las Cruces’ impact fees study. This option has already been prepared and is ready for adoption.
- **Option 2: Two-Tier Road Fees** would charge lower road fees in the infill area and higher fees in the rest of the city. This option has already been calculated and could be ready for adoption in short order.

- **Option 3: Growth Area Only Fees** would charge the three fees only in the “growth area.” This option would require substantial revisions to the approved Land Use Assumptions and Capital Improvements Plan in order to comply with State law requirements. However, the fees in this area would be similar to the fees under Option 2, with the exception that public safety fees would be lower if central facilities are excluded.

Characteristic	Option 1: City-Wide Fees	Option 2: Two-Tier Road Fees	Option 3: Growth Area Only Fees
Land Use Assumptions	No change needed	No change needed	Revise
Service Areas	1 (city-wide)	1 (city-wide)	1 (growth area)
Assessment Districts	1 (city-wide)	roads: 2 (infill & growth area) others: 1 (city-wide)	1 (growth area)
Benefit Districts	1 (city-wide)	1 (city-wide)	1 (growth area)
Road Fee Amounts	Base line	lower in infill area/ higher in growth area	same as growth area in Option 2
Public Safety Amounts	Base line	No change	Lower (exclude central facilities)
Drainage Fee Amounts	Base line	No change	No change