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**City of Las Cruces**<sup>®</sup>  
 PEOPLE HELPING PEOPLE

**Council Action and Executive Summary**

Item # 12      Ordinance/Resolution# 12-204

For Meeting of \_\_\_\_\_  
 (Ordinance First Reading Date)

For Meeting of June 4, 2012  
 (Adoption Date)

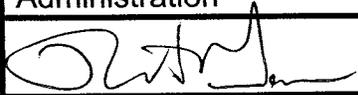
Please check box that applies to this item:

QUASI JUDICIAL       LEGISLATIVE       ADMINISTRATIVE

**TITLE: A RESOLUTION DETERMINING THAT NO UPDATES OF THE PARK LAND USE ASSUMPTIONS, PARK CAPITAL IMPROVEMENT PLAN AND PARK DEVELOPMENT IMPACT FEES WERE NEEDED; CONTINUING THE COLLECTION AND EXPENDITURE OF PARK DEVELOPMENT IMPACT FEES UNDER THE CURRENT STRUCTURE AND FURTHER DETERMINING THAT NO UPDATES ARE NEEDED THROUGH JUNE 30, 2013.**

**PURPOSE(S) OF ACTION:**

Approval of no changes to the current Park Land Use Assumptions, the Park Capital Improvement Plan and the Park Development Impact Fees.

<b>COUNCIL DISTRICT: ALL</b>		
<b><u>Drafter/Staff Contact:</u></b> Mark Johnston	<b><u>Department/Section:</u></b> Parks & Recreation Administration	<b><u>Phone:</u></b> 541-2550
<b><u>City Manager Signature:</u></b>		

**BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:**

In 1995, the City of Las Cruces enacted Park Development Impact Fees pursuant to Resolution 95-368, in compliance with the Las Cruces Development Fee Ordinance. The provisions of the Ordinance require that the City update the Park Development Impact Fees, the Park Land Use Assumptions and the Park Capital Improvement Plan at least every five years or determine that no updates are needed.

Over the past several months, members of the Capital Improvements Advisory Committee (CIAC) have discussed at length Park Development Impact Fees and the appropriate levels of service. The CIAC has been faced with membership issues and was unable to reach consensus as to the amount and nature of any proposed changes to the current Park Development Impact Fee structure. On May 1, 2012 members of the CIAC were informed by staff via e-mail that a recommendation would be brought to City Council at the June 4, 2012 meeting extending the current Park Development Impact Fees through June 30, 2013. By taking this action, the City will be in compliance with the Development Fee Ordinance and will be able to continue to collect

(Continue on additional sheets as required)

Park Development Impact Fees for future parks. Over the next year, the CIAC will continue working on the Park Development Impact Fee structure. Through this planning process, a new Parks and Recreation Master Plan, Land Use Assumptions and Parks Capital Improvement Plan as well as an updated Park Development Impact Fee Schedule will be completed and a recommendation will be brought forward for City Council action. It is anticipated that the CIAC will make a formal recommendation on a new impact fee structure before June 30, 2013.

**SUPPORT INFORMATION:**

1. Resolution.
2. Attachment "A", Applicable sections of the Las Cruces Development Fee Ordinance.
3. Attachment "B", Current Park Development Impact Fee Schedule.

**SOURCE OF FUNDING:**

<b>Is this action already budgeted?</b>	Yes	<input checked="" type="checkbox"/>	See fund summary below
	No	<input type="checkbox"/>	If No, then check one below:
	<i>Budget Adjustment Attached</i>	<input type="checkbox"/>	Expense reallocated from: _____
		<input type="checkbox"/>	Proposed funding is from a new revenue source (i.e. grant; see details below)
<input type="checkbox"/>		Proposed funding is from fund balance in the _____ Fund.	
<b>Does this action create any revenue?</b>	Yes	<input checked="" type="checkbox"/>	Funds will be deposited into this fund: <u>4106</u> in the amount of <u>\$23,000.00</u> for FY <u>12</u> .
	No	<input type="checkbox"/>	There is no new revenue generated by this action.

**BUDGET NARRATIVE**

The revenue projection is based on recent historical collections of approximately \$23,000 per month. An estimated amount of \$23,000.00 will be deposited into the Park Development Fund (4106) into account 41120010-520020 for the remainder of FY 12. It is estimated that \$276,000.00 will be collected during FY 13 and will be deposited into the same account. Funds collected will be used for new amenities for existing parks and/or park projects as identified in the ICIP.

**FUND EXPENDITURE SUMMARY:**

Fund Name(s)	Account Number(s)	Expenditure Proposed	Available Budgeted Funds in Current FY	Remaining Funds	Purpose for Remaining Funds
Various	Various	Various	Various	Various	Various

(Continue on additional sheets as required)

**OPTIONS / ALTERNATIVES:**

1. Vote "Yes"; this will approve the Resolution and establish that no updates will be made to the Park Development Impact Fees, the Park Land Use Assumptions and the Park Capital Improvement Plan. The City will continue collection and expenditure of the fees as listed on the current Park Development Impact Fees Schedule through June 30, 2013.
2. Vote "No"; this will disapprove the Resolution which may violate the Development Fee Ordinance.
3. Vote to "Amend"; and provide changes required.
4. Vote to "Table"; and provide staff with further direction.

**REFERENCE INFORMATION:**

The resolution(s) and/or ordinance(s) listed below are only for reference and are not included as attachments or exhibits.

N/A

(Continue on additional sheets as required)

**RESOLUTION NO. 12-204**

**A RESOLUTION DETERMINING THAT NO UPDATES OF THE PARK LAND USE ASSUMPTIONS, PARK CAPITAL IMPROVEMENT PLAN AND PARK DEVELOPMENT IMPACT FEES WERE NEEDED; CONTINUING THE COLLECTION AND EXPENDITURE OF PARK DEVELOPMENT IMPACT FEES UNDER THE CURRENT STRUCTURE AND FURTHER DETERMINING THAT NO UPDATES ARE NEEDED THROUGH JUNE 30, 2013.**

The City Council is informed that:

**WHEREAS**, the City previously enacted Park Development Impact Fees effective July 1, 1995 in Resolution No.95-368, in compliance with the Las Cruces Development Impact Fee Ordinance ("Ordinance"); and

**WHEREAS**, LCMC Sections 33-24 and 33-26 of this Ordinance requires that the City update the Park Land Use Assumptions and the Park Capital Improvement Plan or determine no updates are needed at least every five years; and

**WHEREAS**, LCMC Section 33-32 of the Ordinance requires that the City update the Park Development Impact Fees or determine no update is needed at least every five years; and

**WHEREAS**, the Capital Improvement Advisory Committee (CIAC) has discussed at length Park Development Impact Fees and the appropriate levels of service; and

**WHEREAS**, the CIAC has been faced with membership issues and was unable to reach consensus as to the amount and nature of any proposed changes to the current Park Development Impact Fees; and

**WHEREAS**, staff desires to have the City Council determine that, through June 30, 2013, no updates of the Park Land Use Assumptions, Park Capital Improvement Plan, and Park Development Impact Fees are needed and that the City should continue collecting Park Development Impact Fees; and

**WHEREAS**, by taking this action, the City will be in compliance with the Ordinance and will be able to continue to collect Park Development Impact Fees for future parks.

**NOW, THEREFORE**, Be it resolved by the governing body of the City of Las Cruces:

**(I)**

**THAT** the current Park Development Impact Fees will continue to be utilized through June 30, 2013.

**(II)**

**THAT** no updates to the Park Land Use Assumptions, the Park Capital Improvement Plan, and the Park Development Impact Fees are needed through June 30, 2013.

**(III)**

**THAT** City staff is hereby authorized to do all deeds necessary in the accomplishment of the herein above.

**DONE AND APPROVED** this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

APPROVED:

(SEAL)

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

VOTE:

Mayor Miyagishima: \_\_\_\_\_

Councillor Silva: \_\_\_\_\_

Councillor Smith: \_\_\_\_\_

Councillor Pedroza: \_\_\_\_\_

Councillor Small: \_\_\_\_\_

Councillor Sorg: \_\_\_\_\_

Councillor Thomas: \_\_\_\_\_

Moved by: \_\_\_\_\_

Seconded by: \_\_\_\_\_

APPROVED AS TO FORM:

*[Handwritten Signature]*  
Asst City Attorney

(c) In addition to the requirements of subsection (b) of this section, the city shall comply with all other requirements for adopting land use assumptions, a capital improvements plan and an impact fee.

(Code 1988, § 25-73)

**Sec. 33-24. Periodic update of land use assumptions and capital improvements plan.**

(a) Under this chapter, the city shall update the land use assumptions and capital improvements plan at least every five years. The initial five-year period begins on the day the capital improvements plan is adopted.

(b) The city shall review and evaluate its current land use assumptions and shall update the capital improvements plan in accordance with this chapter.

(Code 1988, § 25-74)

**Sec. 33-25. Approval of amendments.**

(a) Under this chapter, within 30 days after the date of the public hearing on the amendments, the city shall approve, disapprove, revise or modify the amendments to the land use assumptions, the capital improvements plan or impact fees.

(b) The resolution approving the amendments to the land use assumptions, the capital improvements plan or development impact fees shall not be adopted as an emergency measure, and such adoption must comply with the procedural requirements of this chapter.

(Code 1988, § 25-75)

**Sec. 33-26. Determination that no update of land use assumptions, capital improvements plan or development impact fee is needed.**

(a) When an update under section 33-24 is required, if the city council determines that no changes to the land use assumptions, capital improvements plan or development impact fees are needed, it may, as an alternative to the updating requirements, publish notice of its determination conforming to locally adopted regula-

tions governing change-of-zone requests, except as otherwise provided in the state Development Fees Act, as amended.

(b) The capital improvements advisory committee or its successor shall file its written comments on the need for updating the land use assumptions, capital improvements plan and impact fees before the fifth business day before the earliest notice of the city's decision that no update is necessary is mailed or published.

(c) If a person requests in writing, within 60 days after publication of the notice, that the land use assumptions, capital improvements plan or impact fees be updated, the city shall cause, accept or reject an update of the land use assumptions and capital improvements plan to be prepared in accordance with this chapter.

(d) The resolution determining the need for updating the land use assumptions, capital improvements plan or impact fees shall not be adopted as an emergency measure and if adopted must comply with the procedural requirements of this chapter.

(Code 1988, § 25-76)

**Sec. 33-27. Performance of duties within time limits.**

If the city does not perform a duty imposed under this chapter within the prescribed period, a person who has paid a development impact fee or an owner of land on which a fee has been paid has the right to present a written request to the city stating the nature of the unperformed duty and requesting that it be performed within 60 days after the date of the request. If the city council finds that the duty is required under this chapter and is late in being performed, the city shall perform the duty within 60 days after the date of the request and shall continue until completion.

(Code 1988, § 25-77)

**Sec. 33-28. Records of hearings.**

A record shall be made of any public hearing required by this chapter. The record shall be

maintained by the city and shall be made available for public inspection for at least ten years after the date of the public hearing.  
(Code 1988, § 25-78)

**Sec. 33-29. Effect of prior fees.**

An impact or development fee that is in place on the effective date of the ordinance from which this chapter derives shall be replaced by a fee imposed under this chapter by July 1, 1995. If the city has an impact fee that has not been replaced under this chapter by July 1, 1995 it shall be liable to any party who, after July 1, 1995, pays an impact fee that exceeds the maximum permitted under this chapter by more than ten percent for an amount equal to two times the difference between the maximum impact fee allowed and the actual impact fee imposed, plus reasonable attorneys' fees and court costs.  
(Code 1988, § 25-79)

**Sec. 33-30. Moratorium on development prohibited.**

A moratorium shall not be placed on new development for the sole purpose of awaiting the completion of all or any part of the process necessary to develop, adopt or update impact fees.  
(Code 1988, § 25-80)

**Sec. 33-31. Authorization to approve a parks capital improvements plan.**

(a) The city shall approve a parks capital improvements plan by resolution on or before July 1, 1995.

(b) The city may modify the plan by resolution after periodic updates and compliance with this chapter.  
(Code 1988, § 25-81)

**Sec. 33-32. Authorization to impose park development impact fees.**

(a) The city shall impose park development impact fees by resolution on or before July 1, 1995. For the initial period, which shall not exceed five years, the fees shall be paid solely by residential development.

(b) The city shall update the fees or determine that no update is needed at least every five years. Based on the periodic review, the fees may be adjusted by resolution.  
(Code 1988, § 25-82)

**Sec. 33-33. Authorization to approve wastewater system capital improvements plan.**

(a) The city shall approve a wastewater system capital improvements plan on or before July 1, 1995.

(b) The city may modify the plan by resolution after periodic updates in compliance with this chapter.  
(Code 1988, § 25-83)

**Sec. 33-34. Authorization to impose wastewater system development impact fees.**

(a) The city shall impose wastewater system impact fees by resolution on or before July 1, 1995. For the initial period, which shall not exceed five years, the fees shall be assessed on new development per service unit based on the smallest size residential water meter.

(b) The city shall update the fees or determine that no update is needed every five years. Based on the periodic review, the fees may be adjusted by resolution.  
(Code 1988, § 25-84)

**Sec. 33-35. Authorization to approve water system capital improvements plan.**

(a) The city shall approve a water system capital improvements plan on or before July 1, 1995.

(b) The city may modify the plan by resolution after periodic updates in compliance with this chapter.  
(Code 1988, § 25-85)

**Park Impact Fee – effective January 01, 2008**

Years 2008 – 2013:

- \$800 per single family residential dwelling unit
- \$800 per multi-family residential dwelling unit if no park related improvements are made as a part of development
- \$400 per multi-family residential dwelling unit if park related improvements are made as a part of development

Fee Collection:

- Throughout the city without park districts
- Fees may be used within any geographic area of the city

**Level of Service (LOS):**

Neighborhood Park

1.54 acres/1,000 persons

Open Space/Trails

1.81 acres/1,000 persons

**Minimum Standards:**

Neighborhood Park

- 1.5 to 2.5 acre range or above
- Greater the acreage, the less in expected amenities
- Design to be approved by the City
- Minimum number of amenities to be defined in order to meet minimum standards. For example:
  - 1.5 – 2.0 acres: 12 improvements amenities required from the following list:
  - 2.1 – 2.5 acres: 6 improvements amenities required from the following list:
  - 2.6 acres and above: Case by case and negotiable between developer and the City:

**Amenities List:**

Grading and Irrigation\*

Playground equipment

Pathways

Shade structures

Trash receptacles

Basketball court

Pathway system

Picnic areas

Restrooms

Trees / shrubs

Plant ground cover

Water fountains

Rock cover

Parking lot

Tennis Court

Park ID sign

Art displays

Sod / lawn

\*Required

### Open Space/Trail System

- 5 acre minimum
- Natural landscape must be maintained and enhanced
- Must be usable, passive space
- Temporary and/or permanent irrigation required for enhanced vegetation
- Amenities to be negotiable between developer and the City
- Development of open space/trail system to equal cost value of neighborhood park

### Multi-Family Recreation Improvements

- Minimum standards to receive 50% credit on park fee:
  - Minimum, usable space requirements: ½ acre
  - Play area
  - Picnic area
  - Walking paths
  - Bar-b-q area
  - Lawn and/or landscaped area
  - Recreational component (minimum of one amenity)
    - Swimming pool
    - Tennis courts
    - Basketball court (full)
- Design to be approved by the City

### **Park Fee Assessment:**

Park fees fully assessed for all new single family and multi-family residential development including mobile home/manufactured home installations. Exceptions to the full assessment of a park impact fee include:

1. Complete waiver of the fee if developer builds a neighborhood park and/or open space trail system to minimum and LOS standards
2. Partial waiver of the fee if developer provides land dedication and/or partial improvements of a park or open space system
  - a. Land - value based on type and condition of land dedicated and intended use
  - b. Construction
  - c. Land and basic improvements - percentage varies dependent upon improvements
3. Park Fee Credits may be obtained in cases where a developer exceeds minimum and LOS standards
  - a. Developer obtains credits that can be sold to other developers within adjacent defined areas that don't have the capability to develop a park
  - b. Developer responsibility to obtain and/or sell credits
  - c. The City will assess full impact fee unless developer provides proof of obtained credits
  - d. Park Fee Credits available only within defined area adjacent to the development of the park. For example, credits usable within ½ mile of developed park (CIAC will need to determine recommended distance)