

**CITY COUNCIL
AGENDA ITEM COVER SHEET**

ITEM NO: Discussion 3

DATE: December 16, 2010

SUBJECT: Transportation and Park Impact Fees

CONTACT PERSON: Laura Koenig, Clerk/Deputy Finance Director

ISSUE:

The issue before the Council is to review the Transportation and Park mitigation funds.

SUMMARY:

The City collects \$5,272 in Transportation impact fees and \$3,175 in Park impact fees for new single family residential building permits. The purpose is to provide funding to mitigate the impact of new development on existing streets and parks.

RCW 82.02.070 requires that transportation and park impact fees must be spent within six years of receipt.

The Park Impact Fee Fund has a current balance of \$72,162.56. The Transportation Impact Fee Fund has a current balance of \$34,786.83.

The following chart provides information on the collected but unspent transportation and park impact fees by year:

Revenue Receipt Year	Required Expense Year	Park Impact Fund	Street Impact Fund	Received From:
2008	2014	29,197.56	0.00	Lin Homes, Zahn, George, Gohl
2009	2015	30,265.00	13,698.83	Cambria Homes, Encore Homes
2010	2016	12,700.00	21,088.00	McNaughton, Cambria Homes, Site Services
Fund Balance		72,162.56	34,786.83	

RECOMMENDATION:

Include the review of the Transportation and Park Impact Fee funds as a part of the annual budget process to ensure funds are spent as required.

Attachments: A. RCW 82.02.070 and RCW 82.02.080
B. SMC 16.112

RCW 82.02.070

Impact fees -- Retained in special accounts -- Limitations on use -- Administrative appeals.

(1) Impact fee receipts shall be earmarked specifically and retained in special interest-bearing accounts. Separate accounts shall be established for each type of public facility for which impact fees are collected. All interest shall be retained in the account and expended for the purpose or purposes for which the impact fees were imposed. Annually, each county, city, or town imposing impact fees shall provide a report on each impact fee account showing the source and amount of all moneys collected, earned, or received and system improvements that were financed in whole or in part by impact fees.

(2) Impact fees for system improvements shall be expended only in conformance with the capital facilities plan element of the comprehensive plan.

(3)(a) Except as provided otherwise by (b) of this subsection, impact fees shall be expended or encumbered for a permissible use within six years of receipt, unless there exists an extraordinary and compelling reason for fees to be held longer than six years. Such extraordinary or compelling reasons shall be identified in written findings by the governing body of the county, city, or town.

(b) School impact fees must be expended or encumbered for a permissible use within ten years of receipt, unless there exists an extraordinary and compelling reason for fees to be held longer than ten years. Such extraordinary or compelling reasons shall be identified in written findings by the governing body of the county, city, or town.

(4) Impact fees may be paid under protest in order to obtain a permit or other approval of development activity.

(5) Each county, city, or town that imposes impact fees shall provide for an administrative appeals process for the appeal of an impact fee; the process may follow the appeal process for the underlying development approval or the county, city, or town may establish a separate appeals process. The impact fee may be modified upon a determination that it is proper to do so based on principles of fairness. The county, city, or town may provide for the resolution of disputes regarding impact fees by arbitration.

RCW 82.02.080

Impact fees -- Refunds.

(1) The current owner of property on which an impact fee has been paid may receive a refund of such fees if the county, city, or town fails to expend or encumber the impact fees within six years of when the fees were paid or other such period of time established pursuant to RCW [82.02.070\(3\)](#) on public facilities intended to benefit the development activity for which the impact fees were paid. In determining whether impact fees have been encumbered, impact fees shall be considered encumbered on a first in, first out basis. The county, city, or town shall notify potential claimants by first-class mail deposited with the United States postal service at the last known address of claimants.

The request for a refund must be submitted to the county, city, or town governing body in writing within one year of the date the right to claim the refund arises or the date that notice is given, whichever is later. Any impact fees that are not expended within these time limitations, and for which no application for a refund has been made within this one-year period, shall be retained and expended on the indicated capital facilities. Refunds of impact fees under this subsection shall include interest earned on the impact fees.

(2) When a county, city, or town seeks to terminate any or all impact fee requirements, all unexpended or unencumbered funds, including interest earned, shall be refunded pursuant to this section. Upon the finding that any or all fee requirements are to be terminated, the county, city, or town shall place notice of such termination and the availability of refunds in a newspaper of general circulation at least two times and shall notify all potential claimants by first-class mail to the last known address of claimants. All funds available for refund shall be retained for a period of one year. At the end of one year, any remaining funds shall be retained by the local government, but must be expended for the indicated public facilities. This notice requirement shall not apply if there are no unexpended or unencumbered balances within an account or accounts being terminated.

(3) A developer may request and shall receive a refund, including interest earned on the impact fees, when the developer does not proceed with the development activity and no impact has resulted.

Chapter 16.112 DEVELOPMENT IMPACT FEES

Sections:

16.112.010	Purpose.
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16.112.110	Expenditures.
16.112.120	Refunds.
16.112.130	Impact fee as additional and supplemental requirement.

16.112.010 Purpose.

This chapter of the unified development code is enacted pursuant to the Washington State Growth Management Act [Chapter 17 Law of 1990, 1st Executive Session, Chapter 36.70A of the Revised Code of Washington (RCW) et sequitur and Chapter 32 Laws of 1991, 1st Special Session, RCW 82.02.050 et sequitur, as not in existence of hereafter.]

It is the purpose of this chapter to:

- A. Ensure that adequate facilities are available to serve new growth and development;
- B. Promote orderly growth and development by requiring that new development pay a proportionate share of the cost of new facilities needed to serve growth; and
- C. Ensure that impact fees are imposed through established procedures and criteria so that specific developments do not pay arbitrary fees or duplicate fees for the same impact. (Ord. 630 § 2[16.13.010], 1995)

16.112.015 Definitions.

The following definitions apply to this chapter:

- A. "System improvements" means transportation capital improvements that are identified in the city's latest adopted 20-year comprehensive plan and are designed to provide services to the community at large.

B. "Project improvements" means site improvements and facilities that are planned and designed to provide service for a particular development project and that are necessary for the use and convenience of the occupants or users of the project, and are not system improvements.

C. "Frontage" means that portion of the development property adjacent to an existing or future roadway where access to the site or individual properties is permitted by the city.

D. "Frontage improvements" shall include all improvements as designed in the city comprehensive plan, city standards, or other adopted plan that can include roadway surfacing, curb and gutter, sidewalk, drainage, lighting, landscaping, and signs.

E. "Designated city official" shall be the public works director or their designee.

F. "Local access classified roadway" means the designated roadway cross section as included in the city's adopted standards, comprehensive plan, or a city area master plan.

G. "Developer" means any representative of a development that is the designated traffic impact fee payer. (Ord. 993-08 § 7)

16.112.020 Imposition of impact fees.

A. After the effective date of this code, any person who seeks to develop land within the city of Sultan by applying for a building permit shall be obligated to pay an impact fee in the manner and amount set forth in this chapter.

B. The fee shall be determined and paid to the designated city of Sultan official at the time of issuance of a building permit for the development. For manufactured homes, the fee shall be determined and paid at the time of issuance of an installation permit. (Ord. 993-08 § 8; Ord. 630 § 2[16.13.020], 1995)

16.112.030 Recreation facility impact fee formula.

A. Findings and Authority. The demand for parks and recreation facilities is proportionate to the size of the user population. The larger a population grows, the greater the demand for city parks and recreation facilities. In order to offset the impacts of new residential development on the city's park system, the city has determined to adjust the current park impact fee consistent with city standards as new development occurs. Impact fees are authorized under the State Environmental Policy Act (SEPA) and the Growth Management Act (GMA) to help offset the cost of capital facilities brought about by new growth and development. Impact fees imposed will be used to acquire and/or develop parks, open space and recreation facilities that are consistent with the capital facilities and park and recreation elements of the Sultan comprehensive plan.

B. The impact fee component for recreation facilities shall be calculated using the following formula:

$$\text{Fee} = (\text{T/P} \times \text{U}) - \text{A}$$

1. "Fee" means the recreation impact fee.

2. "T" means the total development cost of new facilities. Such costs shall be adjusted periodically, but not more than once every year.
3. "P" means the new population to be served.
4. "U" means the average number of occupants per dwelling unit.
5. "A" means an adjustment for the portion of anticipated additional tax revenues resulting from a development that is proratable to facility improvements contained in the capital facilities plan. (Ord. 993-08 § 9; Ord. 929-06 §§ 1, 2, 3; Ord. 630 § 2[16.13.030], 1995)

16.112.040 Traffic impact fee formula.

The impact fee component for roads shall be calculated using the following formula:

$$\text{TIF} = \text{F} \times \text{T}$$

- A. "TIF" means the traffic impact component of the total development impact fee.
- B. "F" means the traffic impact fee rate per trip in dollar amounts. Such rate shall be established by estimating the cost of anticipated growth-related roadway projects contained in the capital facilities plan divided by the projected number of growth-related trips, as adjusted for other anticipated sources of public funds. Such rates shall be adjusted periodically, but not more often than once every year, to reflect changes in the prevailing construction cost index, facility plan projects, and anticipated growth.
- C. "T" means the trip generated by a proposed development. (Ord. 993-08 § 10; Ord. 630 § 2[16.13.040], 1995)

16.112.050 Calculation of impact fee.

- A. The impact fee for nonresidential development shall be computed by applying the traffic impact fee formula set out in SMC [16.112.040](#). The impact fee for a residential development shall be computed by applying the traffic impact fee and recreation facility impact fee formulae set out in SMC [16.112.030](#) and [16.112.040](#), combining the results.
- B. If development for which approval is sought contains a mix of uses, the impact fee must be separately calculated for each type of use.
- C. Upon application by the developer of any particular development activity, the designated city official may consider studies and data submitted by the developer, and if warranted, may adjust the amount of the impact fee. Such adjustment shall be deemed warranted if it can be demonstrated that:

1. Due to unusual circumstances, the system improvements would not benefit the proposed development;
2. The public facility improvements identified are not related to the proposed development; and

3. The formula set forth for calculating the impact fee results in a fee that is not proportionate to the project's impacts. (Ord. 993-08 § 11; Ord. 630 § 2[16.13.050], 1995)

16.112.060 Collection of impact fees.

The impact and administrative fees imposed under this code and identified in the city of Sultan's current fee schedule shall be due and payable at the time of issuance of a building permit for the development or issuance of an installation permit for a manufactured home or building. (Ord. 820-03 § 1; Ord. 630 § 2[16.13.060], 1995)

16.112.070 Impact fee exemptions.

A. The replacement of a residential structure on a site within 12 months of the demolition or removal of the prior residence.

B. The impact fee for an exempt development shall be calculated as provided for herein and paid with public funds by including such amount(s) in the public share of recreational facility improvements undertaken within the city of Sultan. (Ord. 820-03 § 2; Ord. 630 § 2[16.13.070], 1995)

16.112.080 Impact fee credits for other than traffic impact fees.

The developer shall be entitled to a credit against the applicable impact fee component for the present value of any dedication of land for improvement to or new construction of any system improvements provided by the developer (or the developer's predecessor in interest), to system facilities that are/were identified in the capital facilities plan and are required by the city as a condition of approval for the immediate development proposal.

The amount of credit shall be determined at the time of building permit issuance (or site plan approval where no building permit is required). A credit against the applicable impact fee shall be limited to the total amount of the applicable impact fee for the particular development. (Ord. 993-08 § 12; Ord. 630 § 2[16.13.080], 1995)

16.112.085 Traffic impact fee credits.

The developer shall be entitled to a credit against the transportation impact fee component for the present value of any dedication of land for improvement to or new construction of any system improvements provided by the developer (or the developer's predecessor in interest) whenever a particular system improvement is a condition of approval or terms of a voluntary agreement. A credit shall be limited to the total amount of the transportation impact fee for the particular development.

The initial amount of credit shall be determined by the designated city official at the time of building permit issuance or site plan approval where no building permit is required. The final amount of the credit may be adjusted with the approval of the designated city official to reflect actual costs.

Calculating a transportation impact fee credit shall be determined as follows:

A. When a development frontage abuts a designated system improvement roadway, any credit for this roadway section will be reduced by the cost for the required frontage improvement. Land dedication shall be credited for any additional right-of-way dedication exceeding the local access classified roadway right-of-way standard.

B. Credit shall not be given for project improvements that are primarily for the benefit of the development users or occupants, or that are not located on the frontage when identified in a city adopted plan. This could include access walkways to schools, centers, and parks. This could also include roadway or safety improvements not identified as system improvements.

C. Credit for land dedication shall be determined by an appraisal conducted by an independent professional appraiser chosen by the developer from a list of at least three such appraisers approved by the city. The cost of the appraisal shall be borne by the developer and is not subject to a credit. The appraisal shall only value the land dedicated and not any alleged damages to any abutting property.

D. Cost for facility construction for system and project improvements shall be based upon a construction cost worksheet provided by the city and completed by the developer, or the city may require actual costs provided by the developer's contractor.

For any residential portion of development, credit shall be determined on a per dwelling unit basis. The credit per dwelling unit shall be determined by calculating the total impact fee credit for the residential portion of generated trips and dividing by the number of dwelling units. Credit will then be applied at the time of permit issuance for each dwelling unit.

No refund or future credit will be allowed in the event that the impact fee credit calculated or actual construction costs exceed the amount of the impact fee. (Ord. 993-08 § 13)

16.112.090 Appeals.

A developer may appeal the impact fee determination to the designated city official within 20 days of the issuance of the determination of the impact fee. The following is the process:

A. The developer shall submit a letter explaining the reason for the appeal. Any cited documents in the letter shall be included.

B. The designated city official shall review and respond to the developer within 30 calendar days of the submittal of the appeal letter. The city representative can approve, request additional information, or deny.

1. An approval will include an impact fee determination adjustment.

2. Requested additional information must be provided by the developer to the city within 20 calendar days or in a time frame as agreed upon by the designated city official.

3. Denial of an appeal will provide an explanation of why this decision was made.

C. If a developer is not satisfied with the designated city official's determination, the developer may request a determination by the city's hearing examiner pursuant to SMC [16.120.100](#).

D. Impact fees must be paid at time of permit issuance. If the developer has or will be appealing the impact fees, the developer shall submit a letter of protest at the time the impact fee payment is made.

E. When impact fees have been paid and a determination of a fee reduction is made in the appeal process, a refund or credit for future site fees will be made. No refund will be allowed to exceed the amount of the total impact fees paid for a particular development. (Ord. 993-08 § 14; Ord. 630 § 2[16.13.090], 1995)

16.112.100 Impact fee fund.

Impact fee funds will be created and established under SMC Title [3](#). The finance department will establish separate accounts and maintain records for each type of impact fee. (Ord. 977-07 § 1; Ord. 630 § 2[16.13.100], 1995)

16.112.110 Expenditures.

Impact fees for system improvements shall be expended only in conformance with the capital facilities plan. Impact fees shall be expended or encumbered for a permissible use within six years of receipt, unless there exists an extraordinary and compelling reason for fees to be held longer than six years. Such extraordinary and compelling reasons shall be identified in written findings by the city planning commission. (Ord. 630 § 2 [16.13.110], 1995)

16.112.120 Refunds.

A. The current owner of property on which an impact fee has been paid may receive a refund of such fee if the city fails to expend or encumber the impact fees within six years of collection, or such greater time as may be established in written findings by the city planning commission documenting extraordinary or compelling reasons for extension beyond six years. In determining whether there has been an encumbrance, impact fees shall be considered encumbered on a first-in, first-out basis. The current owner likewise may receive a proportionate refund when the public funding of applicable service area projects by the end of such six-year period has been insufficient to satisfy the ratio of public to private funding. The city shall notify potential claimants by certified mail (return receipt requested) deposited with the United States Postal Service at the last known address of each claimant.

B. The request for a refund must be submitted to the city council in writing within one year of the date the right to claim a refund arises or within one year of the date notice is given, whichever is later. Any impact fees that are not expended within these time limitations, and for which no application for refund has been made as herein provided, shall be retained and expended on the indicated capital facilities. Refunds of impact fees under this subsection shall include any interest earned on the impact fees.

C. A developer may request and shall receive a refund, including any interest earned on the impact fees, when the developer does not proceed with the development activity and no impact has resulted. (Ord. 630 § 2[16.13.120], 1995)

16.112.130 Impact fee as additional and supplemental requirement.

The impact fee is additional and supplemental to, and not in substitution of, any other requirements imposed by the city on the development of land or the issuance of building permits; provided, that any other such city development regulation which would require the developer to undertake dedication or construction of a facility contained within the city capital facility plan shall be imposed only if the developer is given a credit against impact fees as provided for herein. (Ord. 630 § 2[16.13.130], 1995)

