



City of Three Forks
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MEETING MINUTES

DATE: 3/4/2025 TIME: 9:05AM

REASON for MEETING / COMMITTEE NAME: Impact Fee Advisory Committee

ATTENDANCE: Present at the Library were Kelly Smith and City Attorney Susan Swimley, Mayor Randy Johnston, and Chairman Alex Blackburn; present via Zoom were: Impact Fee consultant Lee Nellis, Committee members Mike Stenberg, Christina Cavanaugh, Aly Fendler (zoomed in about 9:08). Randy Carpenter was excused. Notes were taken by Kelly Smith during the meeting and compiled as minutes by Crystal Turner afterwards.

DISCUSSION: Susan called the meeting to order, saying she appreciated the Committee meeting again as it was her request to do so. She also thanked the members for their time thus far. "My concern is with the *large scale commercial development* because it was left without a recommendation as to how to charge for it. I know we are not looking at anything specific – I'll talk about water later, not sewer – but we need something to start the assessment. We cannot leave it on a case-by-case basis as this will not pass muster for Montana law. I saw that you had quite a discussion as to determining how difficult it is to define large scale, but you did come up with *anything over 4,000-square-feet*. I think the report did a very nice job that it is difficult to compare a large business like a Cabela's which would have a coffee shop, a kid area, the warehouse, the shopping area – that would have a much bigger impact on the water and sewer services with several bathrooms than say a 10,000-square-foot building that has one office, distribution and just one bathroom.

"When we met on the Impact Fee ordinance hearing [with the City Council], Lee said that he could provide the meter information to the Committee because it is one of the basis that has been used in Montana. Out of that came a discussion on whether we could facilitate or use something out of the International Building Code's plumbing division which gives you all kinds of fixture sizes and water uses. This is a really nice segue into the most recent case we have in Montana on using impact fees. The City of Whitefish has building permits, which Three Forks does not. Having building permits allows you to assess impact fees more pointedly because you know exactly what is being built: how many bathrooms, bedrooms, etc. They used an impact fee based on meter size. In addition to the meter size (this case was specifically regarding residential) and then they up-charge for every additional facility. So if you had five bathrooms, you got up-charged. This was challenged, and we don't know what the Court will say, but the City of Whitefish agreed it excessively up-charged for additional shower heads." Mayor Johnston said the meter size should determine the water usage. Susan agreed and said the case never made it to Court but they settled for \$1,500,000.

Susan also said the Committee forwarded on to the Council the cost for transportation impacts, but you said you were concerned they were very high so you left it to the Council's discretion. The Council said if the number is that high to justify the projects, it is what it is. So I am asking that if the committee is going to make an edit, it also sends forward a transportation fee and updates the document to no longer say *DRAFT* and update the date."

Christina Cavanaugh said most places use meter size, but what if a Cabela's or Murdoch's came to our small town, it does not necessarily give you a "feet on the ground" measurement. She asked Susan, "Is there a way to do a meter size and then also a large parking lot because road seemed to be the part we kept coming back to? Is there a way to do water meter fee by size and parking lot fee?" Susan clarified she had the question correctly: base meter size but expandable based on parking and the zoning for it? Christina said yes, the Committee felt we were justifying the water system, but if a larger business with lots of traffic was to go in on the end of Main Street the traffic would greatly effect the roads. Kelly Smith added the Committee only talked about infill commercial, not new. Lee Nellis said he revised the Ordinance based on Susan Swimley and the Council's comments at the public hearing. He believed the water fees rise quickly as the meter size increases. He explained there could be a base transportation fee which would cover the first 10 parking spaces, then an additional \$1,500 for each additional parking space needed. "For Fire, until the City acquires a tower or a ladder truck, it was decided to leave it by square footage and if that seemed unfair to someone/some business, they could follow the appeal process and have a hearing before the Council. The new Impact Fee Ordinance will address these things and that is why they are not addressed in the Service Area Reports," Lee explained. He did not recommended changing the definition of the large-scale commercial, and will adhere to the City's existing policy for ratcheting up the fee based on meter size. "If a Walgreen's came in, which would need relatively required parking beyond the 10 spaces for a 4,000 square foot building, they would start paying the fee in addition to the initial. The subtlety is not actually changing the fee, you are adding a multiplier to the fee. The fees calculated in the Service Area Report would not change, a multiplier would be attached to each. That way we have an easily measured criteria which would be applied to large scale development. Three Forks is going to need additional fire capacity if it gets really big buildings anyway. We can edit the Service Area Reports to reflect those changes if the Committee is comfortable with that. The idea of using the plumbing code has some appeal, but you have to remember we are working with limited resources (which is just Crystal and Kelly) and asking them to do those calculations to make the fees more complex, as they did in Whitefish, didn't seem to me to be the right choice. We have a staff that is maxed out and we need the calculations to be as straightforward as possible, so that's what I chose to do. It does not change the Service Area Reports. The Council did consider them, and we can modify it as we need, redefine large scale development to be dealt with by meter size, and transportation will have more for parking spaces," Lee said.

Kelly Smith questioned that there are no commercial impact fees for the Southeast Residential Zone, only infill. Lee said he assumed the City would get a proposal for the Southeast Residential that qualifies as large-scale, but now I not sure that is actually the case. "Given the way it was setup, we probably need to get that defined. The commercial fee is based on the vacant space in the existing districts. We figured a certain number of square feet based on the tax records, then took a look at what was vacant, so we had a relatively firm basis of X square feet of infill commercial. We do not have a clue yet on how much commercial will occur in the Southeast Residential Zone, so there is not enough data to come up with a fee. So my thought was when they come in for annexation, we would look at the plan and take a look at how much commercial is proposed and figure out the share of commercial and do the calculation," Lee said. Susan clarified Kelly's comment, that if we are using the term *infill* as defined but only applying those fees to what is in the City now, when they come to annex we would have no basis to charge them an impact fee. So then we would have to come back to this and define it,

and timewise I don't think that is the same: zoning and annexation is much quicker than reanalyzing the impact fees. "Development of a vacant lot in the city is going to have the same infill impact fee as new development in the Southeast Zoning so I'm having trouble finding a distinction," Susan stated. Lee argued there is no infill in the Southeast Zoning District the way it is defined. Susan said if it is tying into our existing lines, it's adding the capacity to our treatment plant. Those are all the things we calculate for vacant lots in the city as the same as those not in the city yet. "I don't understand how we don't have some type of impact fee that will apply, and if that's the case or goal let's chat about that," Susan said. Lee responded that the goal is to have accurate impact fees, and for accuracy we need to be able to make a reasonable estimate as to what is going to happen and take that and divide it by what is going to be improved. "You have X amount anticipate, X cost which is in your CIP, and do some math. To extend the existing fee to a new area, regardless of location, leaves us hanging without the estimate since we do not know what development is proposed. We don't know how many lots, the size, whether they are large-scale or not. You are saying we need to take a number that is defensible in the existing zoning districts, and extend it to the development where it is not defensible," Lee said. Susan said she will agree to disagree on that but wanted to direct the Committee back to the purpose of today's meeting.

Mike Stenberg shared his screen and showed Belgrade's impact fees for non-residential. Christina liked breaking up the definitions of each use to give them a feel for the graphic, for Streets and Fire but not based on square footage. She asked if we could change the definition to include infill commercial in the Southeast Zoning District. Lee said he would amend the definition for the infill and the large scale, but disagrees that it would be inconsistent for the Southeast since it is still unknown. Susan disagreed. Alex Blackburn said that if Susan is looking for language that explains and defines, he proposed the Committee come up with something standardized as to the infill plus (such as:) Type A - warehouse up to X-square feet with single bathroom, or commercial development Type B such as a restaurant, or Type C which is large like a Murdoch's. "That way we would have the language of our impact fee," Alex said. Lee asked what improvements would that fee support? "Within the City, for both water and sewer we have projects listed and a clear understanding of what improvements need to be made. In the southeast, we do not have the other side of the equation requiring the City to drill another well. In my mind, there needs to be an annexation agreement in place first that will help us define what improvements need to be made above and beyond what is in the CIP," Lee explained. "We are rock solid, in my experience, of what we calculated already for the known projects. Once you step outside of what you know we are getting into unknown territory," Lee added. Susan asked that any annexation, Buttleman field or the southeast, "We would be connecting them to our existing water lines, which have capacity and have already been paid for by the City of Three Forks. That is what we would be recovering from those new connections. The next expansion of our water treatment plant is not done yet, but when it is needed we add it to the CIP and then we have..." Susan attempted to say. Lee interrupted and Susan tried to finish but due to the Zoom/In-person meeting setup, Lee did not hear her trying to finish her question. Lee continued talking about the water lines that will be installed by the developer. Susan argued that those new lines will be connecting to the existing system. Lee said the impact fees are not for connecting to, but for increasing capacity – they are not buying a share of what is already built. Christina asked if there is a minimal part of the impact fee that pertains to the current systems? Lee said they are only to expand. "If you remember, we deducted from the impact fee the share that is paid by the existing residents," Lee said. Susan asked that Lee give the Committee members the opportunity to weigh in and discuss themselves their thoughts on what has been provided rather than Lee telling them what to decide.

Mike said the water and sewer impact fees, regardless of location, is to provide for future expansion. "So that can be assigned to everyone evenly. However, traffic is different and it is unknown in the

southeast area. Correct me if I'm wrong Susan, but let's say Kyd Road was a large collector road like Cottonwood Road – if the developer built it they would get the impact fee credit or pay the fee and the City builds it.” Susan answered yes, that is correct. Lee argued it is not about buying a share though, based on the law, you can only charge for new service not fix for an existing service. (Again, Lee continued talking while Mike was trying to speak at the same time so there was difficulty to capture the discussion in these minutes.) Mike said it is difficult to know what to charge for when you do not know the plan. Lee gave the example, if the Southeast development build the whole sewer system except for the expansion of the lift station to the treatment plant, they would get credit back for a portion of that new infrastructure.

Susan said we do not know if any vacant lot in the city is every going to be built on. She said the circular logic that we can charge an impact fee for every vacant lot in the city but not impose the same fee for vacant lots that are yet to be annexed does not make sense. Lee argued that every vacant lot in the city was accounted for and put into the calculations that went into the CIP. There is no known flows for the undeveloped area. Alex tried to clarify that it would come down to the zoning of those lots and what type of building would be developed on each. (Again, Lee must not have been able to hear as he continued to speak.)

Susan asked for the conversation to return to the large scale commercial development over 1-inch meter with more than 4,000-square-feet. She asked for the Committee to comment on this, rather than Lee. Alex said generally within a 2-inch meter there would be certain needs for that size; some type of manufacturing. “We need to change the case by case to a definition in the Service Area Report then, correct? In the legal aspect, there is no way to give an exact language of what that type of use is going to be, so we need to have some sort of standard and I believe we can come up with language,” Alex said. Susan answered yes, please. Mike suggested basing it on just meter size for non-residential with a table that has the costs. Kelly Smith said she liked Belgrade's categories, because the more traffic the higher the impact fee is for transportation. Christina agreed to have a breakdown like that for Three Forks' transportation impact fee. She asked if the City could get in trouble at all for not having a ladder truck to reach buildings of a certain size. Susan replied no and yes, “The doors are too small to get the fire trucks into the fire house, our zoning has height restrictions which eliminates the need for having a ladder truck. But if the zoning changes to allow for higher buildings and we are not prepared to handle the need, yes we could get in trouble eventually,” she answered. Mike stated the commercial on the spreadsheet should not be by square footage but rather by a sum of total square footage. Kelly agrees and stated she did a calculation. Mike said some of the same may be used just for storage and not actually part of the commercial use. Kelly explained her calculations for 4,500SF on a 1-inch main, that would be almost \$16,000 in impact fees for water and sewer. “But for a 10,000SF building it would be almost \$35,000. And I know when the pie shop was thinking of expanding they were thinking of a 10,000SF building but most of that would be for making pies and the restaurant part would be very small, and I know that would have really hurt them in being able to build that,” she said. Alex asked if the correct way would be meter size, then parking size to determine the fee, “Because you may have 10,000SF but only 3 employees and your usable space for the customers may not be needed to have, say 25 parking spaces,” Alex said. Susan said Lee had a suggest on meter size with required parking 10 or less, and then if you get to 10 or more it was by parking spot at \$1,500. “I think that would cover a lot of what we want to establish,” Alex added. Susan said she could support that. Alex asked how best to word this. Mike clarified he understood the discussion. Susan reiterated her interpretation of it. All Committee members agreed that Water and Sewer impact fees will be based on meter size only. Transportation to be based on parking. Lee is to create a table and see how it could apply, similar to Belgrade's but broken out. Transportation and Fire would be based on traffic.

Mike asked if there would be a southeast non-residential section and then an in-town section slightly different? Christina commented she understands the pie shop example and she understands we have an unknown in the southeast area, but wanted to ensure the fees would help the town for growth. “Do we just say *these are the rates for the City of Three Forks, or non-residential in the southeast is exempt?*” she asked. Susan disagreed that the southeast area should be exempt, knowing Lee disagrees with that advice. Mike commented that a developer has the cost to install the main infrastructure and the lift station already, so paying additional impact fees would not make sense. There was discussion regarding partial impact fees, annexation agreement and credits. Christina asked, “So, not infill? Just call it all commercial?” Susan said yes, that is a suggestion that could be adopted.

Alex confirmed the Committee’s recommendation that impact fees for Water and Sewer are to be based on meter size be standardized for commercial, then exceptions depending on new development. “This is a great start point and provides the language that we need,” he said. Aly Fendler said she feels the Committee has gone in circles quite a bit and not much the Committee can do to predict. “I agree with Mike that if we can categorize it in a way that is broad enough to make the most sense, based on specific areas we think could be incorporated into the policy,” she said. Mike stated that would be:

- Residential and a base fee for Water and Sewer
- Residential Southeast base fee for Water and Sewer
- Non-residential southeast and residential the rest with the meter sizes and then those costs broke out.

Susan explained that is when the appeal process comes in, because if it does not work for a specific area they have the process to go through. Lee said there will probably be a credit involved in the southeast’s development and they will pay for the water transmission line. “If we are able, we could stick with the idea of adjusting by parking space, we could have a small commercial pay the same fees at the rest of the city’s infill, and if they got large they would be adjusted the same way,” Lee said. Susan asked, “You came up with 1500/parking space on transportation above 10 and I do not know the basis for that?” Lee explained the basis is for a flat fee for a 4,000SF building, which is in zoning, and works out for a small commercial building to be 4 spaces. “In order to have some way of extending that, I said *based on those existing zoning requirements it becomes roughly one space for every 1,300SF* and I rounded it up to make it a nice number. The other way we could do this, is to require a traffic study and I did not see the benefit of that,” Lee explained. He offered they will still have the right to appeal as well. Susan asked the Committee members who it felt about adding that to the Transportation Impact Fee, and also asked if they wished to make a final recommendation on the Transportation Impact Fee. Mike agreed. Alex appreciated the additional information and breakdown explained today.

One more meeting to finalize Large Scale Commercial Development. Lee said he could have the rewrite done within a week, which should include how he came up with the Parking in a memorandum, definitions to add southeast for Commercial, addendums to the Service Area Reports, and redo the fee page. If the Board confirms what Lee provides is what they agree upon, which can be done via email, this could be back to the Council at its April meeting for Service Area Report with an updated date (March or April), with the revised fees and definitions, for final adoption.

MEETING ADJOURNED AT: 10:40AM

INITIALS OF COMMITTEE MEMBERS (Approving minutes): _____

