



Office of the City Attorney

City Hall, Room 206
201 Delafield Street
Waukesha, Wisconsin 53188-3688
Telephone (262) 524-3520
Fax (262) 650-2569
Email attorneys@ci.waukesha.wi.us

Brian E. Running
City Attorney
Miles W.B. Eastman
Assistant City Attorney
Julie M. Gay
Assistant City Attorney
Anne Marie Iselin
Assistant City Attorney
Donna Hylarides Whalen
Assistant City Attorney

Memorandum

October 17, 2014

To: Common Council, Mayor, City Administrator
From: Brian Running

Re: Revisions to Impact Fee Ordinances, Code Sections 4.10 and 23.08

This is a briefing on the proposed changes to Municipal Code §4.10 and §23.08, concerning impact fees. Proposed drafts of the new ordinances, and redline versions, are attached to the Common Council agenda as well.

These suggested revisions are the result of a long process that began with an impact fee study done by Ruekert & Mielke in March, 2012. The City is required to conduct a periodic review and adjustment of impact fees, and a public hearing and Council approval are required for adjustments to the fees. The Ruekert & Mielke study was the subject of public hearing on May 15, 2012, and was approved by the Council the same day.

Steve Crandell had been working on revising the impact-fee ordinances, and when I arrived here in May he asked that I look over Code sections 4.10 and 23.08 and give my input. I suggested that both ordinances be revised to make them easier to understand, to consolidate similar provisions in the two ordinances into one, and to remove the actual fee schedule from the ordinance and to have it as a separate document.

Consolidating the separate fees in §4.10 and §23.08 puts them in one place, so they're easier to find, and also reduces the amount of required changes when adjustment of the schedules is done.

Removing the fee schedule from the ordinance and making it a separate document that's distributed by the Community Development Department simplifies the adjustment



procedure, by eliminating the necessity of amending the ordinance every time an adjustment is made, which is supposed to be yearly.

The procedure for amending the impact fee schedule is now stated in the ordinance, and it mirrors the requirements of Wis. Stats. §66.0617, the state impact fee statute. A needs assessment and public hearing are required before any amendments.

Code §23.08 requires that developers set aside land for parks and open spaces when they plat new subdivisions. Previously, they had an option of paying an impact fee in lieu of dedication, and the fees were stated in §23.08. Now, any lands dedicated to the City will be appraised and the value will be credited towards the park impact fee assessed by §4.10. This avoids a double hit of both impact fees and land dedication for the same purpose.

Section 23.08 also contained a provision whereby developers had an option of maintaining private parks as a way to meet their parkland dedication requirement. Based on input from Park, Rec and Forestry, this has been eliminated, as the provision is not used and is not compliant with the city's comprehensive plan.

A new fee schedule, based upon the Ruekert & Mielke study, will be developed and presented separately to the Council for approval. A new public hearing may be necessary.

