

Capital Improvements Advisory Committee (CIAC)
Virtual Meeting via Webex
May 19, 2021
3:00 p.m.

Participants:

City Staff

Michael Marrero, City Manager
Phillip Urrutia, Asst. City Manager
Cindy Muncy, Asst. City Manager
Thomas Kerr, Dir. of Public Works/Utilities
Vanessa Ramirez, Deputy Dir. Public Works
Joe Tucker, Asst. City Engineer
Gayla Sanders, Utilities Project Coordinator

Kimley-Horn & Associates

John Atkins
April Rose Escamilla
Jeff Whitacre

CIAC Members

John Landgraf
Mike Withrow
Joe Hurt
Dr. James B. Goates
Richard Pierce
Filiberto Gonzales

Absent

Rev. Quincy L. Randall

Others Present

Chris Berry, Betenbough Homes

Due to COVID-19 precautions, the CIAC meeting was held via Webex.

1. Call to Order

Mr. Landgraf called the meeting to order at 3:02 p.m.

2. Approve minutes from the CIAC meeting on April 14, 2021 and the Stakeholders meeting on May 5, 2021 CIAC

Mr. Landgraf asked for a motion to approve the minutes from the April 14, 2021 CIAC meeting and the Stakeholders meeting on May 5, 2021. Mr. Gonzales made a motion to approve and seconded by Mr. Hurt. Motion passed unanimously.

3. Remove from table, discuss and formulate written recommendation to Council on Impact Fees CIAC

Mr. Landgraf asked for a motion to remove from table, discuss and formulate written recommendation to Council for Impact Fees. Dr. Goates made a motion to do so and seconded by Mr. Withrow. Motion passed unanimously.

Mr. Withrow opened the discussion by acknowledging the City of Odessa needed something to help with funding, but to also keep the housing situation in Odessa moving forward yet remain affordable. Mr. Withrow stated that the Impact Fee could be absorbed into the cost of larger homes easier than on smaller homes. Once this fee is passed on to the consumer, it could potentially create a hardship for the mortgagee. Mr. Landgraf asked the representatives with Kimley-Horn if they had encountered that issue with other cities they had worked with. Mr. Whitacre replied that smaller homes are greater in density and, therefore, have a greater number of trips than larger homes. Mr. Whitacre encouraged the committee to make this a policy decision where the City could allow a discount on smaller homes that meet certain criteria rather than charging a specific dollar amount for one type of house and then a different dollar amount for another type of house. Dr. Goates asked if the fees could be set on the square footage of a home rather than a percentage. Mr. Whitacre responded that would be their recommendation. In doing so, the calculation would be closer as it relates to number of trips rather than dollar amount. Mr. Whitacre also stated that this calculation would be more reliable since the square footage could not be changed when the building permit is issued. Mr. Landgraf agreed since housing dollars will change over the 5 to 10-year period of the proposed ordinance. Mr. Whitacre suggested the City could charge a specific rate for a house, but if the house met a certain square footage criterion, then give them a discount. Mr. Marrero stated that while subdivisions with larger homes would generate a larger impact fee, subdivision with smaller homes would have more density than the higher end homes. There would be more people, cars, taps into the water line, etc. Mr. Whitacre stated his concern was the affect an impact fee would have on smaller homes and the cost of those homes. He further stated that this could be contradictory to their idea to keep housing affordable. Mr. Landgraf

stated that Impact Fees will not be the answer to all the City's financial needs but was just another tool to use. Mr. Marrero agreed and stated that he is looking at all options to raise additional revenue to get projects done.

Mr. Withrow stated that Midland also allows for subdivisions that are already platted to have a grandfather clause to exempt them from the Impact Fees. Mr. Whitacre replied that Midland enacted Impact Fees at the effective date of their ordinance but gave a 2-year grace period for those that have already been platted. State law requires a one-year period, but Midland chose to allow a 2-year period. Mr. Marrero asked how much revenue Midland's Impact Fees have generated so far. Mr. Whitacre didn't have that information but stated that some developers in Midland negotiated building roadway infrastructure for credits toward the fees. Mr. Landgraf asked Mr. Berry of Betenhough Homes if he had any comments. Mr. Berry stated that Lubbock had some discussion regarding using square footage, but ultimately decided to use a flat fee and allow discounts instead. Mr. Whitacre stated that to keep things simple, Lubbock chose to give a 50% discount across the board on all residential homes. Mr. Marrero reminded the CIAC that Lubbock only adopted Impact Fees for roadway since that was where their need was. Dr. Goates stated that the City has been trying to bring in workforce housing since he was on the council and there needs to be a way to benefit workforce housing. Mr. Withrow asked if waiving the tap fees on smaller homes while charging those fees on the larger homes was possible. Mr. Whitacre stated that the CIAC could consider that recommendation when writing the ordinance. The ordinance could read "Whereas the discounting is based on square footage or waiving tap fees (whichever one the CIAC agreed upon) furthers the initiative of the City to provide XYZ (whatever the CIAC wants to add)." These recommendations made by the CIAC to Council put in a formatted ordinance just need to be defensible. Mr. Withrow stated that he felt the CIAC, and the City have an obligation to its public servants, teachers, etc to provide affordable houses, but also understands that additional fees are needed due to the increase in the cost of goods. Mr. Marrero stated that he understood the CIAC's desire to keep costs down but felt this would be a policy-type issue. If Impact Fees are implemented now, there would be time during the grace period for costs to moderate. A discussion was also held to define "low end housing". Mr. Marrero gave the definition as "housing available to those who earn less than 80% of the median income". Mr. Marrero asked if the CIAC could identify the areas where there are typically low-income persons residing and possibly provide a total exemption or reduced Impact Fee on these houses. Mr. Landgraf requested Mr. Marrero to show the map of the CDBG targeted areas. Mr. Marrero stated that the areas identified on this map were federally defined as "greater than 50% of residents in these areas are earning less than 80% of the median income". He also stated that these areas have a higher disproportionate number of vacant lots. Mr. Landgraf suggested an exemption from Impact Fees for anything in a CDBG area. He further stated that even with that recommendation for houses in the CDBG target area, the issue of workforce housing or homes at the lower end of the cost market has not been addressed. Mr. Pierce asked if providing a 90% discount for low-income housing and a 75% discount on homes less than 2,000 sq ft would be feasible. Mr. Marrero asked if the intent was to discount further even though, in terms of our fees based on meter size, we were lower than Midland. Mr. Withrow stated he had compared the ad valorem taxes in both Midland and Odessa and discovered that on a \$250,000 home, Odessa was approximately \$40/month higher in taxes. Mr. Marrero asked Ms. Muncy to explain the difference, specifically for the total values of Odessa and Midland. Ms. Muncy explained that Odessa has some additional exemptions that Midland does not. Mr. Withrow stated that he has a calculator that will compare the taxes and exemptions between the two cities and has discovered that the taxes are less in Midland. As a result, more people leave Odessa to move to Midland where they can get more for their money. Midland also receives income from the mineral tax and suggested that Odessa follow suit. Dr. Goates asked to have the charts outlining the comparison of Midland and Odessa displayed. Mr. Landgraf asked if the CIAC had any issues regarding the Commercial / Industrial portion. There were no issues. Mr. Atkins displayed the requested chart and stated that the fees shown on this chart were the raw fees and would mathematically be multiplied by nearly 3, which is the trip-length, when shown on the next slide. Midland's water / sewer fees are higher than Odessa and Odessa is higher on the roadway side due to this calculation. Dr. Goates stated that he suggested a dollar amount rather than a percentage for the Impact Fee to ensure Odessa stays lower than Midland. Mr. Atkins stated that could be done. Dr. Goates recommended the following: \$3,000 in Service Area 1, \$2,000 in Service Area 2, \$3,000 in Service Area 3 and \$1,000 for housing in the CDBG targeted areas.

Mr. Atkins suggested taking a short break from the single-family housing and discuss the non-residential properties. Mr. Landgraf requested the chart for non-residential property be displayed, specifically retail areas. Dr. Goates asked if Midland gave a discount for this. Mr. Whitacre responded that they do. Mr. Atkins reminded the CIAC that this chart compared 3 service areas in Odessa to 4 service areas in Midland. Dr. Goates stated that Odessa's service area 3 compares to Midland's services areas A and D and Odessa's service areas 1 and 2 compare to Midland's service areas B and C. Dr. Goates re-stated that Odessa must remain competitive with Midland, so the Impact Fees in Odessa must be lower than Midland. He also stated that retail businesses always look at Midland first. Mr. Atkins suggested that Odessa could use the maximum Impact Fee for water / sewer and lower the roadway fees. Mr. Landgraf agreed and suggested lowering the roadway fee in Odessa service areas 1 and 3 to \$79,000 and leaving service area 2 at \$53,000. He then requested someone to make a motion to vote

on this. Mr. Marrero interjected stating he would not be doing his job if he did not address the fact that this does not answer the question. The City has several million dollars in need and those are all tied to dollar amounts. The numbers are reflective of the dollar amounts needed to help supplement this cost and that will ultimately have to come from somewhere, which would typically be debt in this case. Mr. Landgraf stated that the funds generated by Impact Fees will be new money and the CIAC is trying to use this tool effectively to remain competitive. Mr. Withrow stated that, historically, Odessa has always had to fight to bring retail businesses in. Mr. Pierce agreed that Odessa's service area 3 should be below \$80,000 and keep service area 2 as is because that service area would like to have development opportunities, too. Mr. Landgraf requested that, due to the previous discussions, the motion be re-stated. Dr. Goates made the motion to decrease Odessa's roadway fees in service areas 1 and 3 to \$79,000 and leave service area 2's roadway fees at \$53,000. Mr. Withrow requested to add leaving water / sewer Impact Fees the same in the non-residential area and any adjustments will come out of roadway fees to get to the \$79,000. Mr. Hurt seconded the motion. Mr. Gonzales asked if this was the recommendation that the CIAC would present to Council. Mr. Landgraf responded that it is one part of the recommendation. Mr. Withrow asked if this would fall under the one-year exemption required by the State. Mr. Atkins replied it would. Mr. Landgraf stated that any discussion regarding extending that period could be discussed separately. After no further questions or discussion, the motion passed unanimously.

Mr. Atkins stated that there are several types of land use types but didn't think it was the CIAC's intent to discuss each one individually. Mr. Withrow asked if they could use the same percentage methodology for each of those types as they did for the retail. Mr. Atkins stated they could apply it across all of the non-residential land use types. Mr. Whitacre wanted to inform the CIAC that when they see the actual ordinance, there will be an actual dollar amount rather than a percentage listed. This is due to the math used in their formula. Mr. Pierce brought the motion, which Ms. Ramirez asked to clarify. Ms. Ramirez wanted to ensure the CIAC wanted the motion to read that Odessa service areas 1 and 3 would be the same amount and to use the same methodology used on the retail portion. Mr. Withrow added that any possible reductions would come from roadway. Mr. Hurt seconded the motion. Mr. Landgraf requested that once Kimley-Horn completed the calculations to send it to the CIAC to review. Mr. Atkins said they would do so. The motion passed unanimously. Mr. Atkins asked the CIAC if they wanted to leave water / sewer at 50% as with residential or charge the max fees for water / sewer and take all the value out of roadway. Dr. Goates wanted Mr. Marrero to make that decision. Mr. Marrero responded he, along with City staff, would review with Kimley-Horn what is best for the City and would provide the City's recommendation to the CIAC.

The discussion returned to the Impact Fees for single family homes. Mr. Whitacre asked if multi-family homes are considered commercial or residential when the building permit is issued. Dr. Goates replied they are considered commercial. Mr. Landgraf stated that the single-family homes being discussed here are conventional homes, duplexes and townhomes with ¾" meters. Mr. Whitacre said that currently "single-family" refers to detached housing and "multi-family" refers to low rise duplexes and homes rather than commercial. He stated this terminology can be changed for clarification purposes and Mr. Marrero agreed.

Mr. Withrow asked how the developer would recover his pro-rata on lots that have been platted, but not yet sold. Mr. Whitacre stated that the Impact Fee is paid when the building permit is issued. The developer of the lots will not pay the Impact Fee, it would be the builder. Mr. Whitacre stated that most cities have most of their value in roads that are built and credits, which is built into the lots when they are sold. Mr. Landgraf requested some examples of developer agreements from Kimley-Horn. Mr. Whitacre stated that developers can make an agreement with the City and can build in their credits into the lot prices. However, the transaction between the developer and the builder happens privately. Mr. Withrow asked if an improvements agreement could be written for a builder to pay the Impact Fees and then have those funds directed back to the developer. Mr. Marrero asked if there was an instrument that could be used at the sale or transfer to the builder. Mr. Withrow stated that the builder may not be able to increase their sale price and the developer could lose those fees. He then asked could the Impact Fees the City collects be passed back to be applied for the overages on the roads the City would normally have obligation for. Mr. Whitacre replied that some cities have over-sized participation through an infrastructure reimbursement agreement. However, this can become difficult for the City since the City would have to track these fees and reimburse the developer. It is also a risk for the developer because their reimbursement is tied to fees that would be paid. Mr. Landgraf asked the City staff, along with Kimley-Horn, to draft a developer's agreement and have it available at the public hearing. Mr. Marrero agreed to do so, but wanted to clarify that this would be provided at the public hearing and not another CIAC meeting. Dr. Goates stated that Mr. Landgraf's request is outside of the CIAC's purview and that another CIAC meeting would not be required. Ms. Ramirez stated that the City is statutorily required to give credits for anything the developer builds, but what that mechanism is to give the credit will be explored.

Mr. Landgraf directed the discussion back to single-family housing. Dr. Goates made a motion to set the Odessa service area 1 impact fee at \$3,000, service area 2 at \$2,000, service area 3 at \$3,000 and housing in the CDBG target areas at \$1,000. Mr. Marrero asked Mr. Berry if lowering these impact fees would allow his company to build more or less in Odessa over Midland. Mr. Berry replied that he is not in favor of just charging less than the maximum fee. Other communities he builds in have included additional discounts for single-family houses. Mr. Berry stated that it is his goal to be the most affordable option in Odessa. His company is currently averaging 10 starts a week in Odessa. Mr. Marrero asked the CIAC if Mr. Berry's comments changed their opinions knowing that currently Mr. Berry can build cheaper in Odessa than Midland. Mr. Withrow asked if Mr. Berry was paying any impact fees in Midland now. Mr. Berry stated he is, but those fees are minimal due to the credits he accrued when working on the Fairgrounds Road project. Mr. Withrow asked if the credits Mr. Berry is using in Midland were forever. Mr. Berry stated they were only good until they are exhausted. Mr. Gonzales asked about the 2-year grandfather window for the grace period. Ms. Ramirez stated it was a 2-year period before the implementation of the Impact Fees. Mr. Atkins clarified that the City would like to extend the one-year period that is statutorily required to 2-years. Mr. Withrow asked for further clarification on when the grace period would be over and the impact fees would be implemented. Mr. Whitacre stated that sub-divisions are tracked by final plat. Mr. Withrow asked if replats would be subject to impact fees. Mr. Whitacre replied it would be considered a new plat if it increases lots. However, if the lot is re-platted because something was missed (i.e. easement or Right of Way dedication), then the lot would be subject to the impact fee. Mr. Landgraf asked when the grace period is over and is that when the Impact Fees are implemented. Mr. Whitacre responded that once the grace period has ended, there would be the credits.

Mr. Gonzales asked why the City was considering extending the grace period passed the one-year state requirement if these fees were being used to raise funds. Mr. Withrow stated that Midland is doing that now. Mr. Berry stated that Lubbock opted to set the effective date six months after the date the ordinance was passed (ex: ordinance could pass 07/01/21, but the effective date could be delayed to 01/01/22). Mr. Berry stated that, from a developer's perspective, this was better as it gives the developer time to get any civil approvals and plats filed. Mr. Marrero stated that Odessa is already behind Midland and any time allowed beyond the mandatory will delay the time to collect funds to pay for future projects. Dr. Goates restated his motion to set the Impact Fees for Odessa service area 1 at \$3,000, service area 2 at \$2,000, service area 3 at \$3,000, houses in the CDBG target area at \$1,000 and increase the grace period to two years. Mr. Withrow seconded the motion. Ms. Ramirez asked Mr. Whitacre to confirm when Midland passed their ordinance and their impact fees implemented. Mr. Whitacre stated that Midland passed their ordinance in August 2019 and their 2-year grace period will end in August 2021. Additionally, Midland's grace period only applied to single-family homes; commercial property was not included. Those impact fees were implemented immediately. Mr. Marrero asked the CIAC if they thought Odessa should mirror that or implement Impact Fees on everything. Dr. Goates replied that the grace period should apply only to single-family homes and only the state mandated grace period would apply to commercial property. Mr. Landgraf asked for a vote on the motion and it passed unanimously. Mr. Landgraf asked Ms. Ramirez to write the recommendation to Council. Ms. Ramirez replied she would do so along with the assistance of Kimley-Horn. Mr. Landgraf asked Kimley-Horn if anything else was needed from the CIAC on this. Mr. Atkins replied they did not.

4. Authorize the CIAC Chair to submit comments and recommendations to John Landgraf, CIAC Council regarding Impact Fees on behalf of the CIAC

Ms. Ramirez informed the CIAC that she would take their comments and recommendations and using the same methodology as the LUA and IF, will put them into a memo and send to Mr. Landgraf for his signature. This will memorialize all the conversations held during this meeting. Mr. Landgraf asked for a motion to allow him as the CIAC chair to present those recommendations to the Council. Mr. Withrow made the motion, Mr. Hurt seconded the motion and the motion passed unanimously.

5. Discuss questions/comments from the CIAC John Landgraf, Chair

Mr. Landgraf asked if there were any other questions or comments from the CIAC. He stated that these recommendations will be presented to Council and that Council will call the public hearing. The CIAC's tasks are essentially complete other than answering questions before the Council and the public.

Mr. Berry stated the CIAC have done good work on this and appreciated being included in the process. Mr. Landgraf thanked the CIAC members for their input, leadership, and serving on this committee.

6. Adjourn

There being no further business, Mr. Landgraf asked for a motion to adjourn the meeting. Mr. Hurt made the motion and Mr. Withrow seconded the motion. The motion passed unanimously, and the meeting was adjourned at 4:54 p.m.

ATTEST:

APPROVED:

Filiberto Gonzales, Secretary

John Landgraf, Chair