

CITY COUNCIL WORK SESSION

IMPACT FEES AND MASTER PLAN

March 23, 2015 – 6:30 p.m.

Eileen Dondero Foley Council Chambers

City Council Present: Mayor Lister, Assistant Mayor Splaine, Councilors Kennedy, Lown, Morgan, Spear and Thorsen

City Council Absent: Councilors Shaheen and Dwyer

Staff Present: City Manager Bohenko, Deputy City Manager Allen, City Attorney Sullivan, Planning Director Taintor

Also Present: Bruce Mayberry, BCM Planning LLC

I. Call to Order

Mayor Lister called the meeting to order at 6:30 p.m.

II. Impact Fees - Presentation by Bruce Mayberry, Consultant

City Manager Bohenko stated that at the request of Councilor Morgan, he has invited Bruce Mayberry, of BCM Planning to discuss Impact Fees.

Planning Director Taintor stated that currently the City of Portsmouth does not have Impact Fees but do have the framework within our ordinance which has been there for 20 years. He continued that through the site-review process there are certain things required i.e., storm water drainage, sewer, sidewalk reconstruction, streets lights, etc. and in the case of larger projects such as Walmart, they can be required to contribute to road widening and sidewalks. He stated that instead of incremental fees, the entire improvement is made based on the project.

Bruce Mayberry, Planning Consultant, BMC Planning, began by stating that the original legislative authority was passed in 1991 with important amendments passed in 2004. He stated he doesn't try to sell anyone or advocate for impact fees, but gives pros and cons of what they can do and what they are not likely to do. He stated that it is difficult to compare one community to another and that the impact fee amounts vary significantly due to various factors. He presented a power point slide show relating Impact Fee Principals, prerequisites, Proportionate demand, etc. He concluded with the problems in practice including over-capacity and no facility plan, failure to fund planned facility, generic facility standards that don't fit, acceptance of the premise of fees, concept of cost recoupment, Grandfathering period of 5 years, and holding period and refunds. He stated that a good starting point is to look at any eligible or likely candidates before going through the process of adopting fees.

Councilor Lown stated the ordinance we have in place but haven't used, if we amend it, then land use bonds can be implemented as condition of approval and if the developer objects to proportionality, it would be an appeal of the fee. Planning Director Taintor stated that is correct, the ordinance itself doesn't give us ability to assess a fee and we would have to go through a process to define what the fee is and he would defer to the City Attorney as to the appeal process.

Discussion ensued regarding the difference between an exaction fee and an impact fee.

Councilor Kennedy asked if a new development comes in after the ordinance is passed, would that be 5 years. Mr. Mayberry stated it would depend on when the site plan or subdivision plan was approved. If it is brand new after the ordinance is passed, it would be subject to the fee, but couldn't be collected until the certificate of occupancy is issued. Councilor Kennedy asked which Board deals with it. Mr. Mayberry stated the Planning Board with the advice and consent of the City Council but the process can vary city to city, and once established it is an administrative process.

Assistant Mayor Splaine stated he attended the Government Affairs Committee meeting regarding the \$1.00 addition fee per occupied room and it is viewed as an impact type fee. He stated that Harborcorp is losing 41 spots and wonders why parking garages can't be a part of Impact fee charges as they are directly impacting parking. Mr. Mayberry explained that paying for an increased level of service is a different type of assessment and impact fees do not cover parking, but is a part of the site plan approval process.

City Manager Bohenko stated we used to have an "in-lieu of fee" for parking but the Board of Adjustment were then dealing with requests and many more were in line so it was discontinued as a fairness issue.

Councilor Morgan stated that the City of Portsmouth has an impact fee ordinance but we haven't developed the calculation process, so how would it work if we were to implement it now and who would be grandfathered. Mr. Mayberry stated that if there have not been any construction notice of fee to developer, it would begin from the date the fee becomes effective, not the ordinance.

Discussion ensued regarding the implementation of administrative fees and the process.

Councilor Thorsen stated that he feels it is an oversight that a parking garage is not on the list for impact fee uses. He continued that if we decide to spend \$100 million on the Wastewater Treatment Facility, how that gets divided into an impact fee. Finally he asked if the fees have to be specified within the ordinance or listed in general.

Mr. Mayberry stated most impact fee ordinances generally allow what the State statute allows but the fees themselves have to be categorized by the improvement the fee is based upon. Deputy City Manager Allen explained the Capacity Use Charge currently in place for water/sewer that would be the buy-in to the system. He continued that developers are a small portion of the usage overall and can look at improvements around the area and take care of infrastructure around that development.

Councilor Thorsen asked if exaction is proportional enough or just normal. City Manager Bohenko stated they are meant to hit the area impacted the most. Councilor Thorsen asked if this can be used for other things other than Water/Sewer. Mr. Mayberry stated the existing law is for Water/Sewer.

Discussion ensued regarding various scenarios of exaction versus impact fees.

Councilor Lown explained that exaction fees are based on a but/for test and impact fees are more of a perspective assessment and feels the developer would then pay twice; paying the impact fee for approval to build and then paying the taxes afterwards.

III. Master Plan – Overview by Rick Taintor, Planning Director

Planning Director Rick Taintor gave a brief power point presentation regarding the Master Plan process.

Councilor Thorsen stated he has met the consultants and was impressed. He continued that we have changing demographics and we need to understand how it is changing and where it is headed. There are changes in residential uses such as short-term rentals and we need to know how to measure the demand. He stated also, there are people who are not looking for single-family homes with backyards any longer and we need to look at workforce housing and this is all a part of this process.

Planning Director Taintor stated the first phase of the process is to look back at the 2005 Master Plan and see what no longer makes sense in accordance with change in demographics, aging population, etc. He continued that we would look at housing solutions for seniors, micro units for millennials, housing to allow people to sell homes and downsize within Portsmouth, etc. He stated that we have to work within the limits of the State statutes.

Assistant Mayor Splaine stated he has been involved in several Master Plan processes and likes the public outreach part but believes we need to hold some sessions off-site. He continued that having the Portsmouth Listens group get involved is very important and finally, wants the consultants to do a lot of listening in the beginning of the process before giving their ideas. He stated that micro-units are also a good option for seniors and they have a much smaller foot-print.

Discussion ensued regarding the timeline set forth and the necessity of flexibility.

Mayor Lister stated the Council will be updated as the process goes along.

IV. Work Force Housing - Overview by Rick Taintor, Planning Director

Planning Director Rick Taintor gave a brief power point presentation regarding Workforce Housing. He stated we have had the ordinance in place since 2006 but it has never been used, but as a result of the recent Charette processes the issue has come forward again.

Councilor Lown left the meeting at 8:10 p.m.

Councilor Thorsen stated there is a distinction in the approach of meeting the State requirements versus the municipality which shall allow for workforce housing, but don't necessitate or coerce developers. He stated it is then a matter of how we prove meeting compliance of the State law as we can't measure a "shall". Planning Director Taintor stated there would be a law suit. Councilor Thorsen stated we are currently short of compliance so how much is required for compliance. Planning Director Taintor stated it is a policy question.

Assistant Mayor Splaine stated he is glad we are opening the discussion of various housing options and that there is a myth out there that Portsmouth is full of wealthy people, which there are many that are not. He continued that micro-housing units make sense and developers can make money on these and they are almost recession proof. He asked how much rent is envisioned to be charged as affordable and how do we incentivize builders to build these. Planning Director Taintor

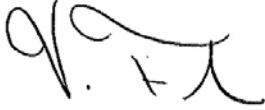
stated the affordability depends on where in the city they are located and zoning can be changed to incentivize these units.

Discussion ensued regarding the various areas of the cities and/or regionalization as well as the demographics of who would want to live where.

VI. Adjournment

Mayor Lister closed the Work Session at 8:35 p.m.

Respectfully submitted by:

A handwritten signature in black ink, appearing to read 'V. French', written in a cursive style.

Valerie A. French,
Deputy City Clerk