



Wednesday, December 28, 2005

Last modified Sunday, December 18, 2005 12:33 AM MST

SV council members weigh impact fee options

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HERALD/REVIEW

SIERRA VISTA — Impact fees.

Is it the right way for the city to fund capital projects? Will it hurt the future of the city?

In recent months, the City Council members have been hearing different viewpoints on a proposal to implement development fees.

After approving the posting of the proposal as a public record for 60 days, the council members now must take information they have and continue to gather and consider what they think would be best for the city.

“It’s a very, very serious topic with a lot of long-term ramifications,” Mayor Tom Hessler said. “We’re going to come up with some kind of impact fee, I feel pretty sure.”

Not all council members’ views are set on making development fees a reality. At the same time, they continue to be lobbied by locals for and against the proposal.

A regional contractor group successfully persuaded the city last month to decrease some fees in the proposed development fee schedule, and the City Council approved the adjusted schedule at the last regular meeting, bringing the fees one step closer to implementation.

At that meeting a group of local business people informed the council of a new effort to study the impact fee schedule, through a local task force comprising local professionals who work in the local real estate market daily.

Developer’s viewpoint

Impact fees are one-time fees paid by developers — when building permits are issued they’re passed along to home and business owners — who foot the bill through higher rent, house payments and perhaps eventually, higher property taxes, as local real estate valuation increases.

As the proposal gets closer to its end, public discussions about impact fees have become more serious and complicated because most consider it a far-reaching and critical issue.

Local developer Frank Moro, owner of First West Properties, spoke for the new task force at the last council meeting.

Though the regional contractors group has been vocal about the proposed fees for many months, the task force was just announced by Moro publicly, on Dec. 8.

Moro, still speaking on behalf of the task force, offered his comments about the fee proposal last week. So did all seven members of the Sierra Vista council, regarding the tentative approval on Dec. 8, that made the proposed fee schedule a matter of 60-day public record at City hall.

The council members opinions varied.

If they are voted in, the impact fees will start being applied to building permits on July 1, the first day of the next fiscal year.

The debate has taken place for the last year, regarding whether these proposed fees are the best option to accommodate the growth in Sierra Vista’s population and development.

“We’re not in an economic boom. We’re building a lot of homes,” Moro said.

He also said that some local businesses have filed for bankruptcy, and some tenants aren't paying rents.

The proposed fee schedule in its current form would be broadly applied to sectors of the local market, and Moro said it should be more specialized in its application in terms of what each market sector can bear.

The task force members represent specific industries or fields of development such as retail, apartments, warehousing, industrial, office buildings and single-family subdivisions, he said.

"They're experts in their field with regard to the economy that affects these projects. Their effect will dial in more accurately the impact fees in each section," Moro said. "I want to see empirical data to rationalize the level of impact fee in each sector."

Moro clarified that he isn't against the proposed impact fees. Rather, the local business community just wants them applied more critically per each realm of local development.

"We're going to have some big anchor tenants coming in, and we should capitalize on that," he said.

Council members have variety of views

The city's private consultant submitted an estimation for maximum-supportable fees for various sorts of commercial and residential development. However, a representative for that firm recently said some decisions for waivers and exemptions would have to be made on a case-by-case basis by the city, since every possible case isn't represented in the consultant's proposed fee schedule.

"I'm kind of uncomfortable with dealing with this on a case-by-case basis because it leaves you open to litigation," Councilman Tomas Gallegos said.

Gallegos said that during the council's last work session, the city's consultant gave some answers about fee exemptions and waivers that were too vague.

"I think Moro is serious about that, and I think we'll get some input," Mayor Pro Tem Bob Strain said about the task force. "What it will do to the consultant's maximum-allowable recommendation? That remains to be seen."

The mayor pro tem indicated a strong concern about how these fees could affect small business enterprises and affordable housing in Sierra Vista, but a likely effect of waiving such fees for more economically sensitive development projects would be an increase in property tax, since the city must pay the difference from its general fund.

Arizona law requires that any waivers or exemptions to a municipal impact fee must be equally compensated in a city's budget.

"The bottom line for me is we have to find some way to fund some capital improvement projects," Councilwoman Carol Dockter said.

The ongoing debate about impact fees has given her pause.

"A couple of years ago I thought it was probably a good idea," she said. "As we've gone through the process, some of my feelings have tempered somewhat."

The city could reduce the number of projects to be paid for through impact fees, budgeting only imperative projects such as new fire and police stations, she said.

"We're looking at five of them, and I'd say two of them are crucial," Dockter said.

Park, street and library projects are relevant to the quality of life, but might be better constructed through a different budget revenue, she said.

Rhetoric at the local government level often has applied the philosophy of "growth paying for itself," Dockter said.

However, she said that in some instances, "perhaps all of us should help pay."

"All of us have contributed to growth," she said.

Community facility district agreements with developers in which builders construct capital improvement facilities in accordance with a development agreement, might be an alternative for some projects, Dockter said.

"I personally would like to see us go more toward a mix of fees," Councilman Craig Johnson said, mentioning possible increases in Sierra Vista's general construction tax, as well as the community facility district idea as other options.

By state law, municipal impact fees cannot be used for operations cost, though they facilitate construction of city buildings that certainly will

require annual operations budgeting.

Improvement districts and bonds are two other ways to pay for capital improvements, Johnson said.

Community facility district agreements could be underwritten by a community bond, "like a secondary property tax," Johnson said.

"We need to define the criteria for the four types of exceptions, and have those defined in a council policy," Councilman Rick Mueller said. "Unless somebody can show me something different or something new, I think the fees across the board are as fair as they can be. I'm about at the tipping point that I think maybe the best way to fund new facilities is to include impact fees."

However, big developers such as Castle and Cooke, which have more resources, may be little affected by the impact fees regardless of the type of project, Mueller said.

The same fees for the same kind of projects might be a lot harder on smaller, locally based developers such as First West Properties, Mueller said.

An increase in the local construction sales tax would be another way to partially budget new public infrastructure in Sierra Vista, Mueller said.

Hessler said if, for example, the council decided to implement the maximum-supportable fee schedule, then hypothetically 80 percent of capital improvements could be built through the impact fee and the other 20 percent could be made up with an across-the-board property tax increase.

"I'm not advocating that, but that's the type of thing we need to consider," he said.

To prevent a shock on the Sierra Vista's market, the fee schedule could be phased in, perhaps 25 percent in year one for example, then increasing incrementally in subsequent years.

"I would doubt the council will support an immediate 100 percent," Hessler said.

A developer offers thoughts

Developer Castle and Cooke Vice President Rick Coffman said the company isn't fundamentally against impact fees and has encountered them throughout California and Arizona.

"This isn't an unusual approach to working with growth, in dealing with growth," Coffman said. "Different places call it different things."

If implemented at the maximum recommendation, the implementation of the fees would be a big jump from the current fees, since right now there is just a park fee of about \$1,500 per home, Coffman said.

"It is going to affect the market," he said. "The market has slowed a little bit now anyway."

In one sense, the city would get two revenue increases through the proposed impact fees, Coffman said.

The transaction privilege (sales) tax collected per home, based on the overall cost of the house, is a state tax redistributed to municipalities and their respective counties.

This transaction privilege tax is typically about 4 percent of the cost of a home, paid by a developer when the home sells.

The increase in price for residential homes, caused by developers passing the cost of impact fees down to home buyers, would increase the amount paid by developers in transaction privilege tax, Coffman said.

So, the city receives the revenue from the impact fees, and the increased tax revenue created by an increased home price, he said.

"I'm concerned about it's impact on the price of housing. It has already been driven up by the cost of materials," he said.

Community facility district taxes in which developers build the public infrastructure is like a secondary property tax though restricted to a facility's particular area of service. Coffman said it could be a cheaper option than city-constructed developments.

"That really is often true. Sometimes we're able to make better deals with subcontractors," he said. "Something like Tribute, for example, we might set up a community facility district."

Castle and Cooke has begun the public planning process for the 1,916-acre Tribute neighborhood development, estimated to amount to a maximum of 6,959 residential units by build out in the coming decade.

Developers often argue that such fees would not just affect new development costs, because the property tax would eventually increase as a

result of the increased valuation of new real estate development.

“Eventually property values are going to go up, and how soon and how much depends on market forces,” Mueller said.

There is a per-dollar limit imposed on local property taxes, but any increased property valuation caused by higher overhead costs to home building through such fees would affect the local property tax revenue nonetheless, eventually, Mueller said.

Council weighs comments

Council members say most local residents who have responded to City Hall are supporters of the proposed impact fees, and non-development related businesses in Sierra Vista generally support the fee.

However, there is “mixed feedback from the business community,” Mueller said, even though the Greater Sierra Vista Area Chamber of Commerce’s official position taken at the last council meeting was to urge the fee proposal be tabled.

Gallegos said the opinion voiced through e-mail from the Sierra Vista residents is nearly 100 percent in favor of impact fees, and his vote will reflect that opinion.

Usually, he said, those who oppose or question the impact fees are in some way connected to local development, building or contracting.

Bella Vista Ranches Manager Judy Gignac said at the Dec. 8 council meeting that those in the local development business question the proposed fee schedule because they are aware of its potential negative effects, more so than would the average private citizen who supports these fees understand the possible consequences.

“If we don’t pass it, then we get accused of not listening to our constituents. And if we do pass it, then we get accused of not listening to the developers,” Councilwoman Hank Huisking said. “Just because every other community in Arizona has impact fees doesn’t mean we have to slam dunk them. I don’t mind exploring other possibilities, but I think we’re on the right track with impact fees in Sierra Vista.”

Huisking said the “mom-and-pop” businesses are the ones that would likely suffer the most under burden of any increased cost of doing business locally.

Before Moro’s group decided to scrutinize the fee schedule, Tucson’s Southern Arizona Home Builders Association and the local Southeastern Arizona Contractors Association submitted a critique of the original impact fees scheduled supported by city staff.

The city responded with adjustments to the proposed schedule.

“I do not wish to predict what the outcome of this will be. We are open, we are listening,” Strain said.

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