



COUNCIL SAYS FEES NOT AIMED AT BURDENING "MOM AND POP" BUSINESSES

Relocation Tests Kalispell's Impact Fee Policy

By Dan Testa, 12-17-09

Kalispell officials are attempting to mitigate the effect the city's transportation impact fee policy would have on a small downtown business attempting to relocate, but currently can't because the fees it may be charged are too high. The controversial fees have served as a political punching bag ever since they were implemented in March of this year, and the complaint by Nancy Johnson, the owner of PB&J Christian Bookstore, seems to reinforce charges by critics of the policy who say the fees stifle business development.



At issue is PB&J's proposal to relocate from 220 First Avenue East, in the KM Building, two blocks up and across the street to 35 First Avenue East, the prior home of the Kalispell Parks and Recreation Department and, most recently, the Busy Bee Play Center. The small book and sandwich shop intends to do some minor remodeling at its new location to add additional kitchen fixtures and a food preparation area.

Caption: Melissa Johnson arranges items on a shelf at PB&J Christian Bookstore in Kalispell. City officials are trying to mitigate the transportation impact fees that could prevent the store from relocating. - Lido Vizzutti/Flathead Beacon

But although PB&J's new location would be 150 square feet smaller, Nancy Johnson, the owner of the business, calculates she would owe the city roughly \$1,800 in impact fees: \$607.26 in sewer impact fees, and \$1,227.18 in transportation impact fees, according to a memo by Assistant City Engineer Paul E. Burnham to City Manager Jane Howington.

At its Nov. 7 meeting, council members asked Burnham and Howington to figure out a way to ease the cost of the transportation impact fees on Johnson, because the policy was not intended to burden the city's small "mom and pop" businesses.

"This situation is not what impact fees were created for, and that's why we've got to get at it now," Councilman Hank Olson said. "The impact fees were not created to hurt the little person, it was created for people who wore the roads out."

Impact fees are charges to businesses and homeowners for the additional demand on city services their structures and accumulated growth of the city creates. These fees also exist for water, stormwater, police and fire department protection, but none of these would be assessed to PB&J in this case. Transportation impact fees pay for road improvements and maintenance necessitated by the new traffic created by growth, and so fall more heavily on businesses.

Much of the controversy over transportation impact fees has centered on the charges to the developers of large so-called

“box stores” on the northern end of town, but PB&J’s issue sheds light on how small, local businesses are affected by the impact fees as well. Due to the recession, new construction and development has been so slow in Kalispell over the last year there have been few test cases to see how the transportation impact fee policy actually works.

In the recent mayoral election, both the incumbent Pam Kennedy, and the eventual winner, Tammi Fisher, said in their campaigns the transportation impact fees needed to be, at the very least re-examined, and at most, rescinded.

In Johnson’s letter to Councilwoman Kari Gabriel, she notes her business is not expanding in space, staffing, services or even the menu, so she wonders why moving up the road has prompted a transportation impact fee of more than \$1,000.

“It is important to the continued success of our business that we make this relocation,” Johnson wrote. “If we are required to pay this fee, we will not be able to make this move and our continued presence in the downtown area of Kalispell will be compromised.”

In his memo to Howington, Burnham noted that previously, businesses and nonprofits that relocated from one place to another – like Bob’s Bail Bonds, Flathead Food Bank and Janitor’s World – were required to pay the difference in impact fees between the previous use and the proposed use of the new location.

When a business relocates, there is no increase in impact on the city’s systems and services, Burnham added, but once a business increases the demand at its new location, then another business moves into the old location, there will then be an overall increase in demand on the system.

At the council meeting, Burnham’s request was granted to use the actual raw data of PB&J’s customer information, rather than the industry published data that led to the \$1,800 figure, to calculate the bookshop’s actual impact, derived from how many customers it sees and whether they arrive by car or on foot. While the new data could possibly lead to a higher fee assessment, most council members present thought that would be unlikely.

“I actually want to see this work, because I think this is a good litmus test,” Councilman Tim Kluesner said. “I want to see those numbers, I really am curious about that.”

Councilman Duane Larson, leading the meeting in Kennedy’s absence, said such friction is inevitable when the city passes a sweeping new policy.

“Any time we pass new legislation, quite often, some part of that legislation produces unintended consequences and perhaps all things don’t fit all applications,” Larson said. “I think that’s what’s happened in this PB&J.”

Councilman Bob Hafferman indicated PB&J’s issue validated the concerns he has long held over the policy.

“We better sit down and take a close look at our impact fees sometime after the first of the year,” Hafferman said. “We’ve got to somehow get something common sense into this whole process.”

“Obviously from this one indication, we’ve got problems,” he added.

In a later interview, Howington said the transportation impact fee policy was working in that it contains mechanisms for businesses who feel they are being unduly assessed the fee to come to the city and attempt to use more accurate numbers.

“A lot of people are looking critically at the way impact fees are calculated,” Howington said. “That’s why we have the provisions to have reconsiderations.”

As for whether this instance sets a precedent allowing any business objecting to its impact fee assessment to demand a waiver or reduction, Howington said that’s different than what the city is attempting to do with PB&J, where “a business that doesn’t really fit within the model,” is getting hit by the fees in its attempt to relocate, but not to expand.

As for Johnson, last week she was recording her customer information and hopes to have the situation resolved by February, when her current lease expires. Regarding the city, Johnson said, “it feels like they’re trying to be fair.” **[End of article]**

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