BOARD OF MAYOR & ALDERMEN *SPECIAL WORK SESSION* MINUTES
MONDAY, NOVEMBER 28, 2022 – 5:00 P.M.
CITY HALL BOARD ROOM
FRANKLIN, TENNESSEE

Board Members			
Mayor Ken Moore	P		
Vice Mayor Brandy Blanton	P	Alderman Beverly Burger	P
Alderman Clyde Barnhill	P	Alderman Matt Brown	P
Alderman Gabrielle Hanson	P	Alderman Jason Potts	P
Alderman Ann Petersen	P	Alderman Patrick Baggett	P
Department Directors/Staff			
Eric Stuckey, City Administrator	P	Michelle Hatcher, Water Director	P
Mark Hilty, ACA Public Works	P	Brian Goodwin, Asst Water Director	P
Vernon Gerth, ACA Community Development	P	Angie Johnson, City Recorder	P
Shauna Billingsley, City Attorney	P	Cayce Anderson, Deputy City Recorder	P
Chris Franklin, Management Fellow	P	Michael Walters-Young, Budget/Strategic Manager	P
Tom Marsh, BNS Director	P		

CALL TO ORDER

Mayor Ken Moore called the meeting to order at 5:00 p.m.

WORK SESSION DISCUSSION ITEMS

1. Presentation On The Proposed Water And Sewer Impact Fees

Michelle Hatcher, Brian Goodwin

This Proposal was brought forward because current impact fees are determined based on water meter size, which is not an equitable capture of the impacts to the system. The purpose of impact fees is to appropriately assign growth-related infrastructure costs to new development and to reduce the cost burden on rate payers to fund growth-related infrastructure.

Increased asset costs for capacity and future development drive additional required conveyance and treatment capacity. The impact fees have not increased in at least 15 years. The goal is to find a solution that is equitable to the community.

Current methodology by meter size incentivizes installation of an undersized meter rather than usage determined from actual occupancy groups. It also discourages the use of fire suppression systems. The distribution and conveyance systems are sized based off diurnal demands, which peak in the morning and evening based on typical residential usage. Water consumption is based off total consumption throughout the month and does not account for peak times when demand is highest. Currently, the Municipal Water District uses SFUE methodology to determine existing capacity and necessary offsite improvements for development.

Mr. Stuckey clarified what is SFUE?
Answer: Single Family Unit Equivalent. The SFUE metric was developed to account for peak diurnal demands and is not a reliable factor for calculating average monthly usage.

The City must have a system to account for the diurnal peaks.

The American Water Works Association (AWWA) provides guidance for municipalities regarding utilities and development. AWWA defines an impact fee as a contribution of capital toward existing or planned future facilities necessary to meet the service needs of new customers to which such fees apply. Two methods are used to determine the amount of these charges: the buy-in method and the incremental-cost method. The City of Franklin uses a combination of both. Charges are intended to provide the funds to be used to finance all or part of capital improvements necessary to serve new customers. Impact fees are seen as a standard approach toward new development.

The Equity (Buy-In) Method assesses new customers a fee to approximate the equity position of current customers. The City uses this approach on the water distribution and sewer collection systems. The Incremental Cost Method assigns new development the incremental cost of system expansion needed to serve the new development. The City uses a combination of both. Staff used Franklin customer accounts to determine the number of SFUEs, current expansion costs, and assumed future expansion costs.

The Development of the Water Impact Fee:
Using a combination of Equity Buy-In and Incremental Cost Method. Fee ***increases $1,535.00 per SFUE***.

The Development of the Sewer Impact Fee:
Using Equity Buy-In based on the assessment of the collection system to bring those new customers in where all the existing customers have already bought in to the infrastructure. The average cost is $2,391.00 per SFUE.

Then, there is the incremental cost for the existing treatment facility and the incremental cost for the new treatment facility. For the Claude Yates Facility, only 4 MGD is allocated towards growth capacity; the other 12 MGD is assumed to be the typical operation of the plant. Therefore, only the 4 MGD is allocated to the impact fees. The average cost for the Claude Yates Facility is $3,573.00 per SFUE, but this investment has already been made towards wastewater capacity. It is essentially the allocation of growth-related capacity.

Alderman Peterson asks what is the cost associated with the additional capacity of 4 MGD?
Answer: $33M, or $40.8M with interest/financing costs.

To account for the new Southeast Cleanwater Treatment Facility, the City assumes it will be roughly an 8 MGD facility, and most the costs for the development of that facility are set, under contract or justifiable. Based on these projections, the average cost for this facility is $10,755.00 per SFUE. This includes financing costs as well.

To summarize, the Sewer Impact Fee is a hybrid of the collection fee, the Claude Yates Facility fee, and the SE Cleanwater Facility fee. The total sewer impact fee is $16,719.00 per SFUE, which is an ***increase of $13,172.00 per SFUE***.

Implementation of this new sewer impact fee would be phased in over 4 years to provide time for people to adjust and also allow for the City to monitor developmental impacts. In conjunction with this, the City proposes full implementation of the updated water impact fee.

Mr. Stuckey recommends implementation of the $3,573.00 sooner than later because the City does want to lose time recapturing what has already been spent. He does not recommend grandfathering in certain developments based on when they got their entitlement. He believes the City is better off having the same implementation for everyone. However, it does incentivize certain projects to move towards development faster to reap the benefits of lower sewer impact fees in the proposed 4-year schedule.

Vice Mayor Barnhill asks if the $6,837.00 is the current fee plus the $3,573.00 that has already been spent on additional capacity at the Claude Yates Facility?
Answer: The overall proposed increase to the sewer impact fee is $13,172.00 per SFUE. The proposal is to break the $13,172.00 up over 4 years. The multi-year approach allows you to continue to look at this pay structure to amend as the Board sees fit. The idea is to have this fairly and equitably assign demand for service and the demand for new treatment capacity to where that demand is coming from which is new development.

Vice Mayor Barnhill asks when do we expect the new SE Cleanwater Treatment Facility to be up and running?
Answer: Approximately 10 years from now due to design, permitting elements, bidding and construction.

Vice Mayor Barnhill asks if the $16,719.00 per SFUE total sewer impact fee would be enough to complete the SE Cleanwater Facility?
Answer: It depends on the accuracy of current projections. The total cost is allocated to SFUEs and is a fair way to distribute that cost for the new developments.

Alderman Brown asks regarding the MGD capacity: Based on what we know today about new developments in the pipeline, how much of the 16 MGD capacity do we think the City will be using?
Answer: The City would be using a lot of that capacity. There is an element of uncertainty because there are entitlements that were granted 20+ years ago that are likely not going to move forward.

Alderman Brown continues by asking: If we are already well into that capacity on current development, are we asking new development to pay for current development?
Answer: It is important to recognize that just because it may have been approved, it is not new development until they pull a building or foundation permit. A development approved 8 years ago that hasn't pulled a permit is in the same boat from this standpoint as a development that was approved this year. The permit triggers the payment of the impact fees.

Alderman Petersen wonders if the 4 MGD additional capacity will be done in 2023?
Answer: Yes.

Alderman Petersen continues on to ask when would the City anticipate the SE Cleanwater Treatment Facility coming online, and is there really an expectation for that much population and new development growth?
Answer: The plan is to look at growth and demand factors over 30+ years, but the estimation currently is moderate to aggressive growth projections. Planning Staff have done some validation based on what has been approved and what is in the pipeline in regard to land use as well. The City must account for changes to the development environment and annexation laws too, so the City can and will account for development demand changes as the SE Cleanwater Facility comes to fruition. The SE Cleanwater Facility cost is significant comparatively, but it is justified as an investment in the future development of our community.

Alderman Baggett asks what the relationship is between the daily water capacity (MGD) and the cost of a plant? What is the capacity expectation for the SE Cleanwater Facility?
Answer: Staff can develop a rough estimate for later discussion. Staff expects the new facility to produce an additional 6 MGD capacity based on conversations with the consultant. It will likely be larger than 4 MGD and a maximum of 8 MGD.

Then, Alderman Baggett asked how much money will the impact fees generate? Is the City unable to raise all the funds needed just with impact fees? Would the remaining bond debt still go to ratepayers?
Answer: It really depends on the timing of the impact fees and when they come in over time. The impact fee is really a 350-gallon unit, divide that into an 8 MGD facility, and the fee is the incremental cost of each 350-gallons per day flow. So, if you are able to recover impact fees for all the additional flow, then it would pay for the facility, including debt service, based on estimates today. The reality is that the bill must be paid and you either assign it to developers or ratepayers. Due to timing, it will likely be a blend.

Alderman Baggett argues that limiting capacity may be the only way to protect the ratepayer.

Mr. Stuckey contends that it may stifle other goals though for the larger community.

Alderman Burger asked how much room there is for expansion if and when the City builds the SE Cleanwater Facility?
Answer: Enough space is reserved based on expectations for the technology to go up to 16 MGD. The solids process will be only at the Claude Yates facility.

Furthermore, Alderman Burger is curious if there are any programs or assistance from the state available? She also asks if those tools are available from the state, has the City done any review of MUDs, PIDs, or TIRZs?
Answer: Yes, but these special districts rely on a geographical area, and the City's intent of application/use is widespread across the community.

To follow-up, Alderman Burger asks if it could be a special-use district rather than a geographical district?
Answer: The issue remains the same because the location of new development and redevelopment dictate which facility it uses.

Alderman Potts deferred his questions to allow time for public comment.

In summary, staff recommends moving forward with the adjustment to the water impact fee, and that the Board implement the 4-year phase-in approach related to the sanitary/sewer fee component implementation.

Public Comment:

Alan Thompson, 67 Glenrock Drive, Nashville, TN, speaking on behalf of City of Franklin Development Services Advisory Commission, wanted to first be transparent that the Commission is made up of consultants, contractors, attorneys, and realtors. Therefore, many projects discussed had been worked on by Commissioners. The Commission appreciates that Franklin embraces growth and understands that growth comes with growing pains. The Commission understands the need for the cost and the phasing of the fees to support new development. The infrastructure has to be built, and there is a cost associated with that infrastructure – but it is how to absorb that cost and how the City works in concert with the development community, that makes Franklin so great. However, the Commission did not feel like they had enough information on the impact to the development community to make a true recommendation yet. The Commission feels that the City is moving in the right direction.

Caroline Mullen, 900 Grapevine Lane, Franklin, TN, the Executive Director of NAIOP, spoke on their concerns regarding the fee proposals. The association sent a letter detailing those concerns and alternate funding options in the hopes that the Board will use them as a resource as they have examples of how this has been implemented across the country.

Ralph Knuss, representing Southstar, LLC, thanked the City for providing space for this discussion to occur. He stated that the solution for future sewer capacity is more of a holistic approach. A portion of the fee should come from the development community, and a portion should come from consumers. The final portion should come from other ways to fund government projects. He requested that the City takes it time to ensure that the right choices are made as to how to deal with the cost of increasing sewer capacity and how it works in concert with the development community.

Adam Ballash, 2000 Meridian Blvd, Suite 250, Franklin, TN, is thankful to have this platform to speak. He has several questions regarding the impact fee proposal:

- It appears that these fee assessments and calculations are based on a 10–12-year-old reports, but Figure 4-12 (IWRP report) suggests that by 2040, the potential peak monthly wastewater demand is only about 12.5 MGD. While it is an old report, this number is very different than what the City seems to be planning for. Do we need to double the capacity that is predicated on the report, or are these predictions just wrong now?
- What is comprising the overall cost that you're trying to solve for? There was a Staff presentation given on March 23, 2021, that generated a lot of these numbers. Those numbers appear to have changed slightly due to rising costs expected for the SE plant, but pretty much everything else is the same. On that same presentation, he still cannot follow the math that goes into determining the incremental cost method for both water and sewer impact fees. Why are we charging for existing infrastructure? He understands that we are charging for the new plants, but what are we capturing otherwise with the fee? A breakdown of how the math was calculated would be beneficial.
- A clarification question on the Claude Yates cost and the water treatment cost: historically, the numbers are much larger, so he assumes that the cost shown is the overage above the original budget? Some clarification is needed to fully understand the incremental cost.
- How accurate is the actual calculation of 350 gallons per day as the SFUE equivalent? Columbia just went through this exact same process and theirs is at 265 gallons per day. He wants to make more sense of that value. The denominator will impact cost.
- Looking at funding alternatives, costs go down considerably if you divide by 250 rather than 350 SFUEs (in the example of an 8-million-gallon plant). Also, echoing Alderman Burger, Build Tennessee is working with NAIOP, the Homebuilders Association, and the State to pass legislation that allows for additional funding mechanisms that municipalities in the state of TN can use.

Ronald Crutcher, 1324 Adams St, Franklin, TN, and his wife are in support of the proposal to charge developers and not increasing the charges to existing users.

John Besser, 532 Ridgestone Dr, Franklin, TN, representing the Housing Commission, is happy about the growth in Franklin. With that, there has been a tremendous increase in the demand for housing. The development community has done a fabulous job at providing housing options for every price range that this demand has brought to us. The area that is lacking supply are homes priced at $450,000 and less. Those that could afford that make $80,000 per year. As Staff continues to talk about growth, he asked the Board to consider if the impact fees will make it less attractive for affordable housing to be built.

Phillip Cantrell, 103 Windsor Way, Franklin TN, representing the 555 Franklin Road Project and Clearview Baptist Church, expresses the importance of this development for Clearview. They sold the land for the 555 Franklin Rd project. Success here allows the church to become completely debt-free, provide additional funding for deferred campus maintenance, and facilitate a more active Missions effort. Clearview chose this developer due to its outstanding national reputation and proven integrity and character. Unfortunately, many issues have come up for the developer when attempting to build the Senior Assisted Living Facility, including the replacement of sewer lines. For this project to move forward, the developer was required to agree to $2.1M in public fees, including a staff estimate that the sewer impact fee would be $141,750.00. Plus, there would be over $2.3M in offsite infrastructure projects, including nearly $2M to correct the failing sewer line. Then, on October 5, 2021, the developer learned of the proposed increase to sewer impact fees just days after staff had confirmed the original budgeted $141,750.00 impact fee number. According to the engineering consultants, the new impact fee would be raised to $2.1M. This proposed increase would be the straw that broke the camel's back. The total preliminary project requirement hit $6M before a single permit had even been filed. Moral of the story: this project was dead before it could really begin. If this proposal as recommended is examined at a macro level, it effectively kills all development and building in the City of Franklin and completely crushes property land values. For Clearview, this means the project dies. The land can never be sold for its highest and best use value, which is damaging to the church revenues and hence the future of the church. The same goes for every landowner in Franklin who ever wishes to monetize their property holdings. As a concerned private citizen and a community business leader, he implores the Board to think about such unintended consequences and view them through the 5th Amendment's Takings Clause, which addresses government agency actions that restrict and diminish property value without fair compensation. The 555 Franklin Road Project has been approved by Board of Zoning Appeals, the Planning Commission, and BOMA all with zero public opposition, but it may have been in vain if this proposal is approved.

Gary Parkes, 105 Reynolds Drive, Franklin, TN, emphasizes that there is no free lunch. Growth requires infrastructure, and infrastructure costs money. This should not be a surprise to the development community. However, like Mr. Cantrell mentioned, Staff must be wary of how it affects current development projects. He has a project currently in the pipeline where the total city fees may amount to $18M. The proposed impact fees will increase their total significantly. There is currently an implication that the City does not benefit at all from new development, which historically isn't the case. It increases total economic activity, but the end user always pays the freight at the end of the day. Whether it's a person paying their water and sewer bill or a person paying their mortgage, the action ends up being born by the end consumer. This ultimately affects Franklin's largest problem - affordability.

Mayor Moore concludes public comment. He stipulates that Staff is looking for some direction on how to move forward.

Alderman Barnhill brings up the study done in 2010 that estimates sewer capacity that Mr. Ballash referred to. He wants to know if the prediction of 12.5 MGD capacity in 2040 is still correct?
Answer: The City's current capacity is 12 MGD, and the daily average is about 10 MGD today. The plan is to add 4 MGD of capacity. Staff will continue to validate those values to ensure the right amount of capacity is being built, but once we hit 80% capacity at plants, the City is required to reevaluate the 2010 value.

Alderman Hanson worried about having enough water supply to fill the proposed additional capacity. She is also concerned that Staff have not exhausted all possible avenues and need to do more due diligence and get it right the first time. This might include grandfathering some projects into the previous fee structure who have already been approved for commercial loans. She is nowhere near comfortable enough to approve the proposed impact fee structure.

Mr. Stuckey would like to respond in part to Alderman Hanson's concerns. Regarding water supply, the City has two different water supplies. The City pulls water from the Harpeth River that is treated at the City's Water Treatment facility, and there is water from the Cumberland River that is treated by Harpeth Valley Utility District (2/3 from Cumberland, 1/3 from Harpeth). There is significant planning that goes into ensuring they have enough capacity to meet the City's water demand.

Alderman Potts is concerned about the 4-year phase-in process. How does Staff define new growth? Is the City grandfathering people in? And if so, how? Is it a project that's already been approved, a project that is still in the pipeline? At what point, does Staff have a cutoff? He requests another FAQ for the public before making a final decision to ensure the public has everything they need.

Alderman Blanton needs more time because it has a huge impact on the developers, builders, and citizens. There is some controversy over grandfathering people in to one fee over another, because where do you start and where do you stop? There is still a lot that needs to be considered before moving forward.

Alderman Burger believes some people need to be grandfathered in because it will be the end of some projects that have been in progress for years, especially non-profit organizations and churches. Everyone is in limbo because developers cannot sign contracts without knowing the fee amount for project completion. She further agrees with Alderman Hanson to exhaust every avenue out there (grants, state programs, etc.)

Alderman Barnhill clarifies fee amounts under the proposed fee structure. If permits are pulled before January 2024 versus after, the increase is significant.

Mr. Stuckey wants to address that impact fees can be offset regarding **affordable workforce housing under Franklin's** Municipal Code. It is approved on a project-by-project basis and funded by General Fund dollars.

Alderman Burger wants to know what happens from here. What is the action that comes out of this tonight?
Answer: Staff is looking for board guidance. As a reminder, staff recommends moving forward with Phase 1 to cover the **cost of Claude Yates since it's a cost that's already been incurred. The longer the Board waits, the more the burden will** shift to ratepayers.

Alderman Burger asks if we move forward with Phase 1, does that beholden the developers to all the other phases?
Answer: No. Execute the first phase, pick the day it goes into effect, and then give yourself additional time to especially inspect the elements related to the future plant.

Vice Mayor Barnhill proposes moving forward with an effective date of January 2024. That provides adequate time for the development community to prepare before it takes effect.

ADJOURN

Work Session adjourned @ 7:22 p.m.

Dr. Ken Moore, Mayor

Minutes prepared by Sarah Schilling, Assistant Deputy City Recorder, City Administrator's Office 1/20/2023 3:05 PM