



COUNCIL DECISION REQUEST

SUBJECT: Development Impact Fee Audit v. Committee

MEETING DATE: December 12, 2013

SUBMITTED BY: Tim Wright, Town Attorney 

SUBMITTAL TO AGENDA
APPROVED BY TOWN MANAGER

AMOUNT BUDGETED: n/a

EXPENDITURE REQUIRED: none 2013/2014



EXHIBITS (If Applicable, To Be Attached): N/A

POSSIBLE MOTION I move to direct Staff to move forward with the adoption of Development Impact Fee(s) choosing the Biennial Audit option.

SUMMARY OF THE BASIS FOR POSSIBLE MOTION:

This CDR is the first step in the consideration of updated Development Impact Fees ("DIF"). The new DIF statute (9-463.05) has numerous reporting and monitoring requirements. The most basic of these requirements is the Annual Report. Within 90 days of the end of each fiscal year, a report accounting for all collections of DIF and expenditures of DIF must be submitted to the Clerk and posted on the Town's website. Another reporting/monitoring requirement is the creation of an Advisory Committee or a Biennial Audit. This CDR seeks direction from the Council on which of these two options staff should move forward.

Option 1: Create an Advisory Committee. A.R.S. 9-463.05(G)(1). If a Committee is created, the Committee would be charged with the following:

- advise the Town during the adoption of the Land Use Assumptions ("LUA") and verify conformity of the LUA with the Town's General Plan.
- monitor and evaluate the implementation of the Infrastructure Improvements Plan ("IIP").
- file yearly reports on the progress of the IIP and all collections and expenditures of DIF.
- advise the Town on the need to update and/or revise the LUA, IIP, or DIF.

Option 2: Have qualified professionals conduct a biennial (every two years) audit. A.R.S. 9-463.05(G)(2). The following elements would be included in the audit:

- review the IIP's progress.
- review of all collections and expenditures of DIF.
- evaluation of any inequities in the IIP or the DIF.

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Staff has reviewed these two options and recommends Option 2 (the Biennial Audit) for the following reasons:

- 1) The DIF statute is very technical and in places counterintuitive. This may cause frustration and/or confusion for a potential Committee. For example, the Committee has a rational idea/recommendation and the statute would not allow its implementation. There are few things more frustrating for volunteers, than to spend time on a board, committee, or commission and not be able to make a real difference.
- 2) Although all citizens on Town committees volunteer their time and are free to the Town, significant staff resources are required to prepare for committee meetings, notice such meetings, attend such meetings, ensure compliance with Arizona's Open Meeting Law, etc.
- 3) Much of the information required for either the Committee or the Audit is already required to be reported in the annual financial report. This minimizes a potential Committee's role and should reduce costs of the Audit.
- 4) The DIF statute mandates at a minimum, five year reviews of the LUA and the IIP. Therefore, even without a Committee, the LUA and IIP are subject to public scrutiny and review at least every 5 years.
- 5) One of the roles of the Committee (and interestingly not required of the Audit option) is to determine compliance with the General Plan. Given the fact that the same professionals prepared the LUA, IIP, DIF, and the Town's 2014 General Plan, this appears to be an unnecessary step.
- 6) The Town's external auditors perform a separate audit and opinion on the Town's use of HURF funds, per state statute, which has similar use restrictions.
- 7) The Town's current auditors should be able to add the Biennial Audit to the auditing services they currently perform for the Town for a reasonable fee.

PROS: see above

CONS: see above

FUNDING:

Acct: Budget: Available: Expense: Remaining:

FM: _____ Date: _____