



## CITY COUNCIL AGENDA ITEM

**To:** Mayor Graham and City Council  
**From:** Ted Shekell, Planning Director  
Walter Denton, City Administrator  
**Date:** May 11, 2006  
**Subject:** Ordinance Amending the City's Subdivision and Land Development Control Ordinance to Establish an Educational Facilities Dedication and Fee-In Lieu Requirement – First Reading

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**List of committees that have reviewed:** This item has been in Community Development at two special meetings, March 23 and April 6, as well as at a regular meeting on May 8, 2006. At its meeting on May 8, the CD Committee reviewed and unanimously recommended sending the ordinance forward to the Council for a vote, although it was sent forward without a recommendation. At this same meeting Dr. Nancy Gibson expressed full support by District 90 for the City's ordinance and its approach on this issue. Jerry Rombach with the Homebuilders Association expressed continued concern about the fees, stating they may force builders to go elsewhere; he also questioned the school's need for the fee.

**Background:** Attached is the school impact fee ordinance for your consideration on First Reading, along with a fee schedule for the four school districts covered by the fee. Not attached as part of the First Reading materials but forthcoming prior to Second Reading is submission to the Council of the final Impact Fee Study and the final Land Valuation Study. While not ready for final publication, they have been sufficiently researched and drafted at this point to ensure all of the information in the ordinance is accurate and defensible. Over the next couple of weeks, the schools and the City will continue to review all of the information to ensure its accuracy and completeness.

City staff and our land use attorney, Dan Vogel, have worked together to prepare the ordinance, the fee schedule, and the base assumptions they are based on. This information is based in part on the information provided by the schools, as well as on research done by City staff and Dan's office. As you will recall, the City informed the schools in Nov 2004 that in order to proceed further with a school impact fee ordinance we needed an Impact Fee Study that would provide the basis for such a fee. The schools provided the City with a demographic study in Nov 2005, along with a model ordinance, however, this study, as admitted by Chuck Kofron, the consultant who drafted it, is not an Impact Fee Study. The model ordinance initially provided by the schools also required a capital facilities plan and needs assessment for each district, which was finally submitted by the schools on March 22, 2006. The attached ordinance and fee schedule was drafted using some of the base information provided in the school's model ordinance, however, much of it was modified to tailor the ordinance to meet the specific needs of the O'Fallon community.

The ordinance has several key components. 1) A separate fee for each district is established, which is necessary because each of the four districts provides its own unique level of service,

consequently generating different impact fees for each district. 2) The ordinance also provides indemnification to the City by the schools in the event the ordinance is challenged in court. 3) The impact fees or land dedication will be authorized at the time of each subdivision plat approval, but the fee will be paid at the time of each building permit issuance. 4) Additionally, the ordinance effective date is conditioned upon the Village of Shiloh approving a similar ordinance, but not Fairview Heights. 5) This ordinance is effective on plats both inside the city limits and those in unincorporated territory within our 1.5 miles subdivision review jurisdiction.

The City met with school officials and their legal counsel on Wed, May 3, to discuss the proposed ordinance and fee schedule, and while there were some questions by the schools regarding the fee schedule and the terms of the ordinance, there was overall support by the schools and their attorney, Jack Hume, for the City's proposal. The consensus of the Mayor, the school leadership, and other officials at the meeting was to immediately press forward with the approval process.

The question has come up as to how frequently the fee schedule will be reevaluated. There are two key components to consider in determining the fee: land valuation and the level of service established by each district. First, the land valuation will be re-evaluated annually to determined market value of land (which currently stands at \$30,000/acre) and the cost per acre of infrastructure needed to service the an average site (which stands at \$29,000 per acre). As land and infrastructure costs change over time, the land valuation component of the fee should also change. Second, the level of service provided by the schools is determined by dividing the maximum number of students per school by the amount of acreage serving each school. While this seems a strange measure, it is the standard used in Illinois for land dedications for school land dedication fees (it should be remembered this is an ordinance for land dedication or fees in-lieu of land). As a school's level of service changes through either referenda or through the adoption and financing of new plans for additional facilities, the LOS component of the fee should also be reconsidered.

As you know, both District 203 and 104 have referenda planned for this November to approve a new high school and a new jr. high. If these are approved, then the LOS for each district would improve, thereby making a review of their fee something that should be considered by the Council. As for Shiloh and Central, they too can be working on improving their LOS with the intent that as their future capital facility plans and financing becomes more refined, their fees could also be revisited. An evaluation of the ordinance and the administrative system set up between the City and the schools, along with revisiting the schools levels of service, should be done in six months to see how things are working and to see what changes, if any, need to be made.

**Legal Considerations, if any:** A key part of the ordinance is that the schools will have to indemnify the City, as well provide for any costs and damages incurred as a result of a successful suit against the ordinance.

**Budget Impact:** The City has incurred approximately \$19,000 in legal expenses to date in preparation of the ordinance and the impact fee study.

**Staff Recommendation:** Staff recommends adopting the ordinance as submitted.