



ROADWAY IMPACT FEE ADVISORY COMMITTEE  
 NEW BRAUNFELS CITY HALL, CITY COUNCIL CHAMBERS  
 550 LANDA STREET  
 NEW BRAUNFELS TEXAS

April 3, 2018  
 6:00 P.M.

AGENDA

1. CALL TO ORDER
2. REQUEST ALL PHONES AND OTHER DEVICES BE TURNED OFF, EXCEPT EMERGENCY ON-CALL PERSONNEL.
3. ROLL CALL
4. APPROVAL OF MINUTES  
 March 6, 2018 Meeting Minutes
5. DISCUSSION AND ACTION ITEM
  - a) Discuss and consider a recommendation to City Council to establish policies and procedures for obtaining and applying offsets and credits against roadway impact fees.  
 (Applicant: City of New Braunfels; Presenter: Garry Ford)
6. ADJOURNMENT

CERTIFICATION

I hereby certify that the above Notice of Meeting was posted on the bulletin board at New Braunfels Municipal Building, New Braunfels, Texas, on this 29th day of March, 2018 at \_\_\_\_ p.m.

\_\_\_\_\_  
 Patrick Aten, City Secretary

NOTE: Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services such as interpreters for persons who are deaf or hearing impaired, readers, or large print, are requested to contact the City Secretary's Office at 830-221-4010 at least two (2) work days prior to the meeting so that appropriate arrangements can be made.





## Roadway Impact Fee Advisory Committee

April 3, 2018

Agenda Item No. 5(a)

Presenter – Garry Ford, City Engineer  
(830) 221-4020 – gford@nbtexas.org

### SUBJECT:

Discuss and consider a recommendation to City Council to establish policies and procedures for obtaining and applying offsets and credits against roadway impact fees.

### Background/Rationale:

In 2007, the City of New Braunfels adopted Ordinance No. 2007-19, which was codified in the Code of Ordinances, in Chapter 100 entitled "Roadway Impact Fees". Section 100-14 specifies the general requirements and procedures for an owner or developer to obtain an offset or credit for roadway improvements. The city may offset the present value of system improvements that have been dedicated to and received by the city. System improvements are roadway improvements identified in the Roadway Impact Fee Capital Improvement Program.

Section 100-14 outlines the following limitations for offsets and credits against roadway impact fees. Additional policies and procedures promulgated by the city may be adopted as administrative guidelines.

1. No offset or credit shall be given for the dedication or construction of improvements required by a traffic impact analysis, unless the city engineer determines that such improvements are not development specific and add capacity to the roadway beyond the benefit of the development.
2. Unit costs shall not exceed the actual cost of the improvements as approved by the public works director.
3. Offset or credit shall lapse if it has not been exhausted within ten years from the date of the plat approval or otherwise designated by agreement.
4. In no event will the city reimburse the property owner or developer for an offset or credit when no impact fees can be collected or for any value exceeding the total impact fees due for the development, unless agreed by the city council.
5. The value of credit for capital improvements made by the developer shall be approved by the public works director.
6. The value of credit for dedicated right-of-way shall be the greater of value of the dedicated land as shown on the appraisals district's rolls or the value as determined by appraisal hired by the city and reimbursed by the owner as of the date of dedication.

The code specifies that an applicant for new development must apply for an offset or credit against impact fees due for the development at or before the time of fee payment, unless the city council agrees to a different time. The applicant shall file a petition with the public works director on a form provided for such purpose and the director must provide an applicant a decision on the offset or credit request.

The intent is to formally establish the policies and procedures for obtaining offsets and credits against impact fees. Many property owners and developers have had difficulty understanding the city's requirements, particularly the timing and in instances where platting takes place over time in multiple phases. The policies and procedures will provide a better understanding of offset eligibility and what information is required to process a request. Furthermore, it will assist staff in processing requests.

The presentation is intended to provide an introduction and steps to establishing the policies and procedures for offsetting roadway impact fees. The policies and procedures will be presented to the Roadway Impact Fee Advisory Committee and City Council at the first meeting with action at the subsequent meeting.

Roadway impact fees are assessed at final plat and paid at time of building permit; therefore, an offset agreement is created after final plat approval. In many cases, the property owner or developer requests offsets during earlier phases of development prior to filing a final plat or during preliminary plat or master plan. The city can determine if the facilities are eligible for offsets at the time of request but cannot enter in an agreement until a final plat is approved.

The proposed policies and procedures will supplement the roadway impact fee ordinance and provide information required to determine eligibility and develop an agreement. It will address the relationship to a proportionality appeal, changes to impact fee rates, method of applying offsets and master plan subdivisions.

**Attachments**

1. Exhibit 1 – Draft New Braunfels Policies and Procedures for Obtaining and Applying Offsets and Credits Against Roadway Impact Fees

**New Braunfels Policies and Procedures for  
Obtaining and Applying Offsets and Credits  
Against Roadway Impact Fees**

City Policy Statement and Rules Concerning Offsets and Credits Against Roadway Impact Fees.

**Offset and Credit Agreements.**

A property owner or authorized applicant for plat approval (the "applicant:"), who is subject to the payment of roadway impact fees under New Braunfels Municipal Code Chapter 100, may obtain offsets and credits ("offsets") against such fees for construction and dedicated right-of-way of a roadway capital improvement serving a new development that has been included in the roadway impact fee capital improvements plan. The verified costs of such contributions will be applied against roadway impact fees otherwise due for a new development pursuant to a written offset and credit agreement ("offset agreement") in a form promulgated by the City Engineer.

**Timing of Agreement**

1. Preliminary Plat. The applicant may file a request for offset eligibility with the City Engineer at the time of application for preliminary plat approval, or if a preliminary plat is not required, at the time of application for final plat approval. The City Engineer will notify the applicant whether the facilities to be dedicated or constructed have been included in the roadway impact fee capital improvements plan ("eligible capital improvements") and if the facilities are eligible for offsets at the time of the request. A request for offset eligibility does not vest the applicant's rights to any subsequently acquired benefits under the agreement. The applicant shall provide the following information in order to review offset eligibility:
  - a. Completed offset eligibility request
  - b. Eligible capital improvements including project number and service area
  - c. Proposed capital improvements to be dedicated or constructed
  - d. Preliminary or final plat submitted with application for approval
  - e. Approved traffic impact analysis including analysis demonstrating the capacity of the proposed improvements that are beyond the benefit of the development
  
2. Final Plat. The applicant shall file a petition for offsets with the City Engineer either at the time of application for final plat approval or before the time of fee payment. The City Engineer will provide the applicant, in writing, a decision on eligible offsets and maximum value of offsets which may be applied against the impact fees due with the final plat in an offset agreement. The offset agreement will be created after final plat approval and finalized at the time of final plat recordation. The offset agreement shall be approved by City Council and executed by the City Manager. The offsets included in the agreement cannot be applied to impact fees due until the time of building permit application for a new development subject to the final plat. The applicant shall provide the following information in order to determine the maximum value of offsets and process an offset agreement:

- a. Completed petition for offsets
- b. Eligible capital improvements including project number and service area
- c. Proposed capital improvements to be dedicated or constructed
- d. Final plat submitted with application for approval
- e. Approved traffic impact analysis including analysis demonstrating the capacity of the proposed improvements that are beyond the benefit of the development
- f. Approved construction plans for the proposed capital improvements
- g. Approved construction estimate for the proposed capital improvements
- h. Value of right-of-way dedication for the proposed capital improvements on the appraisal district's latest records

### **Relationship to Proportionality Appeal**

An appeal undertaken by a property owner who seeks to contest a dedication or construction requirement imposed under the subdivision regulations pursuant to section 118-13 on grounds of proportionality normally is determined prior to execution of any impact fee offset agreement. The City Engineer in submitting his response to a proportionality appeal shall take into account the eligibility of the facilities which are the subject of the appeal for impact fee offsets and shall estimate the amount of such offsets due the property owner. Such preliminary determination shall not affect the amount of the offsets included in an impact fee offset agreement, which must be based on verified costs.

### **Changes in Impact Fee Rates**

1. Roadway impact fees shall be assessed against new developments subject to the approval of final plat or replat in accordance with the provisions of Chapter 100.
2. The roadway impact fees to be charged against a new development (subject to offsets) are those in effect at the time a building permit is issued, provided that the impact fee per service unit does not exceed the impact fee per service unit assessed against the subdivision.
3. Following assessment of impact fees, no additional impact fees or increases shall be assessed unless the number of service units increases.

### **Method of Applying Offsets**

1. Retention of Offset Agreement. With a complete and approved petition for offsets, an executed offset agreement shall be developed and retained by the City in the file for the final plat associated with the agreement.
2. Offset Pool. The total verified costs of eligible capital improvements contributed by the applicant for a subdivision shall constitute the initial offset pool associated with a recorded final plat.
3. Application of Offsets Against Impact Fees Due. The City shall apply offsets against the roadway impact fees due for the first building permit subject to the recorded final plat, and thereafter, against roadway impact fees due for each building permit subsequently issued, until the offset pool has been exhausted.
4. No Payment for Excess Offsets. In the event that offsets have been applied against impact fees due for all lots in the subdivision, and unused offsets remain in the offset pool, in no circumstances will the value of such excess offsets be paid to the property owner.
5. Expiration of Offsets. Unused offsets associated with a recorded final plat will expire 10 ten (10) years after the date of recordation, unless such offsets are extended in accordance with Chapter 100 or these rules.
6. Transfer of Offsets Prohibited. Offsets associated with a final plat cannot be transferred to an offset agreement for different land.

### **Replats**

1. If land subject to a final recorded plat is replatted, a new assessment will be performed at the time the replat is recorded in accordance with Chapter 100. Unused offsets created by an offset agreement may be used to reduce impact fees for new development subject to the replat.
2. If additional eligible capital improvements are contributed by an applicant as a condition of approval of the replat, the verified costs of such improvements will augment the remaining offset pool if an addendum is executed to the original offset agreement.

### **Master Plan Subdivisions**

1. Master Plan Offset Agreement. Where an applicant proposes a master plan for a multiple-unit subdivision, the applicant may apply for a master plan offset agreement at the time of application for the final plat of the first unit of an approved master plan. Where one or more



capital improvements have been dedicated and/or constructed for one or more units of the subdivision and the plats have been recorded before the time of application for a master plan offset agreement, the City Engineer shall determine whether such capital improvements were included in a roadway impact fee capital improvements plan and the extent to which the costs of such facilities have been offset against roadway impact fees due for developments subject to the final plat(s). To the extent such costs have not been offset against impact fees due, the master plan offset agreement may incorporate such excess costs in the offset pool with the verified costs of capital improvements for the final plat to be recorded.

2. Offset Improvements by Unit. As eligible capital improvements are contributed by the applicant with approval of each unit of the master plan, the verified costs of such improvements will augment the offset pool once an addendum to the master plan offset agreement is executed.
  3. Offsets Applied to Subsequent Phases. Excess offsets obtained through contributions of eligible capital improvements for prior recorded units may be used to offset roadway impact fees due for new developments in subsequently approved units of the master plan.
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