



Prineville City Council Meeting February 12, 2008

Issue Summary

Topic: Simmons SDC Appeal

Department: Administration

Staff: Robb Corbett

Overview

During a preliminary site plan review meeting staff provided an SDC and fee quote for a new building being constructed by Simmons Brothers, LLC. This fee is being appealed as per a letter submitted to the city from Hank Simmons.

These calculations are determined by staff, following the guidelines in Resolution 1059 (Section 4.3, Non-Residential (b)(1)) and Section 5.

City Options

1. Uphold the SDC determination by staff.
2. Amend the SDC determination.

SDC & Water/Sewer Connection Fees			
Location of Property: 143 NW 3rd St.			
Application:			
Description of project: 3650sq. Ft. general office building			
<i>Transportation SDC</i>	<i>Adj. Factor</i>	<i>Per KSF</i>	<i>TOTAL</i>
\$2,893.43	1.49	3	\$12,933.63
TOTAL			\$12,933.63
<i>Water SDC</i>	<i>Per Sq. Ft.</i>	<i># of EDUs</i>	<i>Total</i>
\$2,558.74	1 EDU per 600 sq. ft. minus 35% storage	4	\$15,352.44
TOTAL			\$15,352.44
<i>Sewer SDC</i>	<i>Adj. Factor</i>	<i># of EDUs</i>	<i>Total</i>
\$6,508.00	equal to water EDUs	4	\$26,032.00
TOTAL			\$26,032.00
<i>Water Connection</i>	<i>Water Pipe</i>	<i>Water pipe needed</i>	<i>Total</i>
\$430.00	3/4"	Existing	\$0.00
\$490.00	1"		
\$1,120.00	1 1/2"		
\$1,350.00	2"		
TOTAL			\$0.00
<i>Water Meter</i>	<i>Water Pipe</i>	<i>Water pipe needed</i>	<i>Total</i>
\$111.40	3/4"	Existing	\$0.00
\$210.95	1"		
\$379.52	1 1/2"		
\$532.41	2"		
TOTAL			\$0.00
SEWER CONNECTIONS			
The fee which is to be paid for such connections shall be computed by multiplying the "Base Single Family Dwelling Unit" (D U) fee of \$680.00 times the following dwelling unit equivalents for each type of connection specified.			
	Base Single Family Dwelling Unit		
Use existing connection	\$680.00		\$0.00
TOTAL			\$0.00
SDC WATER/SEWER CONNECTION COSTS=			\$54,318.07

The above estimates are based on current rates as of 01/10/2008 and are subject to change by City Council at any time. SDC fees may be appealed to City Council by filling a written request with the City Recorder within 10 days from the date of the decision.

**RESOLUTION NO. 1059
CITY OF PRINEVILLE**

**A RESOLUTION ESTABLISHING SYSTEM DEVELOPMENT CHARGES FOR
SEWER, WATER, AND TRANSPORTATION IN THE CITY OF PRINEVILLE**

WHEREAS, the City of Prineville passed Resolution 875 implementing System Development Charges in the City of Prineville, and

WHEREAS, the City desires to amend Resolution 875 by replacing Section 1 through 7 of said Resolution with Resolution 962,

WHEREAS, the City desires to amend Resolution 962 by replacing language of said Resolution with Resolution 1059,

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF
PRINEVILLE RESOLVES AS FOLLOWS:**

SECTION 1. GENERAL PROVISIONS

1. This Resolution shall provide for the basic framework, schedule and implementation of SDC's for sewer, water and transportation in the City of Prineville, Oregon
2. The fees established by this Resolution are a separate revenue measure apart from and in addition to any applicable tax, assessment, charge or fee otherwise provided by law, except as expressly stated to the contrary
3. As required by ORS Chapter 223 309 as the basis for said SDC's, the City has prepared and adopted the following Public Facility Master Plans. Said Plans are hereby adopted by reference as if set forth in full herein, and may be modified, revised, amended and/or updated by the City at any time. These Plans are available for public inspection at the office of the City Manager of the City of Prineville in City Hall located at 400 N E 3rd Street, Prineville, Oregon
 - (a) The City's most recent version of the Transportation System Plan;
 - (b) The City's most recent version of the Water Facility Master Plan; and
 - (c) The City's most recent version of the Wastewater Facility Plan.
 - (d) The City's most recent version of the Public Facilities Plan
4. The methodologies used to establish SDC's by this Resolution are set forth in the foregoing referenced Public Facility Master Plans and in those documents entitled "Transportation SDC and Water/Sewer Revenue Requirement" dated June 21, 2000, and "Transportation System Development Charge Analysis Findings" dated July 28, 2000, as prepared for the City by Financial Consulting Solutions Group, Inc. These

Reports are attached to this Resolution, are hereby adopted by reference as though set forth in full herein, and may be modified, revised, amended and/or updated by the City at any time

5 The SDC's provided for in this Resolution shall be effective on and after the date of City Council passage and approval by the Mayor in accordance with the Schedule set forth herein

6 The water system development charge is payable concurrent with issuance of a permit to connect to the water system The sewer system development charge is payable concurrent with issuance of a permit to connect to the sanitary sewer system The transportation system development charge is payable concurrent with issuance of a building permit for any new construction, including a building permit for a manufactured home.

7 The SDC's established by this Resolution shall be effective until superseded, modified, revised, amended and/or updated by a future Resolution of the City Council

8 The SDC's established by this Resolution shall be collected, deposited and expended in compliance with ORS Chapters 223.297 to 223.314 (including the provisions for credits for qualified public improvements contained in ORS Chapter 223.304), and other applicable State and City of Prineville laws, rules and regulations

SECTION 2. DEFINITIONS

1 As used in this Resolution, the following words and phrases, unless the context of this Ordinance, State law, or other City ordinance or regulation requires or provides otherwise, shall have the meaning set forth herein:

(1) "Applicant" means the owner or authorized agent of the owner requesting a City Permit

(2) "Building Permit" shall mean a permit for construction issued by the City-County Building Department pursuant to the structural specialty code and fire and life safety code as adopted by the State of Oregon and in effect within the City

(3) "Capital Improvement" means facilities or assets used for the following:

- (a) Water supply, treatment, storage and distribution;
- (b) Waste water collection, transmission, treatment, storage and disposal;
- (c) Transportation

(4) "Commercial use, industrial use, owner, residential use, and/or structure" shall be given the same meaning or definition given to them by the City's Land Development Ordinance No 1057 as amended.

(5) "Development" means the act of making a manmade change to improved or unimproved real estate (e.g. constructing a building or conducting a mining operation) or making a physical change in use or appearance of a structure or land which increases the usage of any capital improvements or which creates the need for additional capital improvements

(6) "Equivalent Dwelling Unit (EDU)" means the single-family residential dwelling has been selected as the basic unit defined as Equivalent Dwelling Unit (EDU). Every other land use is converted to EDU's based on a formula that considers lot size and level of development

- Parcels containing apartments or mobile homes are converted to EDU's based on the number of dwelling units on them.
- Parcels containing nonresidential land uses, such as commercial, are converted to EDU's based on the size of each parcel of land relative to the average single-family lot.

(7) "Improvement fee" means a fee for costs associated with capital improvements to be constructed

(8) "Peak Hour Vehicle Trips" means the amount of vehicle trips, which occur during the peak period for traffic analysis, typically 4-6 PM

(9) "Qualified Public Improvement" means a capital improvement that is required as a condition of development approval, identified in one or more of the Plans referenced in Subsection 3 of Section 1 of this Resolution and either is:

- (a) Not located on or contiguous to property that is the subject of development approval; or
- (b) Located in whole or in part on or contiguous to property that is the subject of development approval and required to be built larger or with greater capacity than is necessary for the particular development project to which the development fee is related.

(10) "Reimbursement fee" means a fee for costs associated with capital improvements associated with capital improvements already constructed or under construction at the time the applicable fee is established, and for which the City determines that capacity exists

(11) "System Development Charge" or "SDC" means a reimbursement fee, an improvement fee or a combination thereof assessed or collected at the time of increased usage of a capital improvement or concurrent with issuance of a development permit, building permit or connection to the capital improvement

SECTION 3. SYSTEM DEVELOPMENT CHARGE IMPLEMENTATION AND FEE SCHEDULE

- 1 System Development Charges (SDC's) shall be effective within the City of Prineville using rates established and authorized by the City Council
- 2 SDC's assigned to those periods ending in a fiscal year (e.g. FY2007) shall be effective on and after the beginning date of each respective fiscal year (e.g. July 1, 2007)

SECTION 4. SYSTEM DEVELOPMENT CHARGES FOR SEWER AND WATER

- 1 Except as otherwise provided for in this Resolution, the SDC shall be made for each connection to the city's sewer or water system on the basis of equivalent dwelling units (EDU's) as that term is defined in this Resolution
- 2 The rate of the SDC for water and sewer systems development will be based on the number of EDU's defined hereinafter in this section.
- 3 Except as otherwise provided for in this Resolution or the authorizing Ordinance No. 1111 as amended, the applicable SDC charge shall be paid concurrent with the issuance of a building permit for new construction or placement permit for a manufactured home, or, in the case of a new business in an existing building, at the time a building permit is issued or at the time a change of address is provided on an existing business or issuance of a land use permit for a new business. In the event there is development without the issuance of a building permit, the SDC shall be paid concurrent with connection to City facilities and prior to any construction associated with the development plan approved by the City. For computation of the SDC, the applicable Equivalent Dwelling Unit fee shall be multiplied by the number of Equivalent Dwelling Units, determinable by the following chart. When calculating the number of units, the capacity of the development will be used for determining the number of students, employees, etc. The minimum number of Equivalent Dwelling Units is one. Partial units will be charged as one(1) EDU.

EQUIVALENT DWELLING UNITS (EDU's)

Residential:

- (a) Single family dwelling is one Equivalent Dwelling Unit (EDU)
- (b) Duplex. one EDU per dwelling unit (i.e. 2)

- (c) Multi-family Each unit shall be multiplied by a factor of 80 EDU Mobile or manufactured homes in a mobile or manufactured home park are included in this classification

Non-Residential:

- (a) Institutional Uses
 - (1) Church. One EDU per each 200 seat capacity An additional EDU shall be added if the church has a kitchen
 - (2) Schools, Private.
 - (A) Kindergarten or preschool - one EDU per 30 students;
 - (B) Elementary school - one EDU per 20 students;
 - (C) Junior and Senior high schools - one EDU per 15 students
 - (3) Nursing homes. One EDU per three beds
 - (4) Hospital: One EDU per three beds.
- (b) Commercial Uses
 - (1) Retail Stores, service and repair shop, bank, and office (except medical, dental and veterinary) - One EDU for each 600 sq.ft. of gross floor area excluding area used for storage only.
 - (2) Medical, dental, and veterinary clinic - One EDU for each 1,000 sq. ft. of gross floor area
 - (3) Automobile service station, including convenience store, but not including car wash or food services such as drive-in restaurant or deli - Two EDUs.
 - (4) Beauty shop - 0 40 EDU per chair.
 - (5) Barber shop - 0 30 EDU per chair.
 - (6) Coin operated laundry - 0 50 EDU per washing machine
 - (7) Theaters - One EDU per 200 seat capacity
 - (8) Civic clubs and lodges serving meals on a regular basis, including beverage services - One EDU per 30 seat capacity.
 - (9) Bowling alley - One EDU per 10 lanes, plus one EDU for every 600 sq ft of gross floor area for restaurant, beverage services and other activities.
 - (10) Restaurant - One EDU for each 600 sq ft of gross floor area not including area used only for storage, except that drive-in restaurants shall be one EDU per five car stalls or one EDU per drive-up window, whichever is greater.
 - (11) Delicatessen (no cooking on site) - one EDU per each 1,000 sq ft. or one EDU per each nine or less employees, whichever is greater
 - (12) Recreational vehicle holding tank dumping facility - one EDU if part of a service station The one EDU would be in addition to the EDUs for the station
 - (13) Dry cleaners - one EDU for each 500 sq. ft. of gross floor area
 - (14) Recreational (commercial) roller rinks, dance halls - 0 30 EDU per each 1,000 sq. ft. of gross floor area, not including area used only for storage.

- (15) Spas and athletic facilities (with pool or gymnasium) - one EDU per 1,500 sq ft of gross floor area
- (16) Figure and athletic fitness salons and facilities (without pool or gymnasium) - one EDU per 1,000 sq ft of gross floor area
- (17) Car wash - one EDU per each two stalls
- (18) Pet grooming - one EDU per 1,500 sq ft of gross floor area
- (19) Motels, hotels, recreational vehicle parks, motor courts, boarding and rooming houses, dormitories - 0 50 EDU per room or space
- (20) Banquet rooms, cocktail lounges, taverns - one EDU per 30 seat capacity
- (21) Government buildings - one EDU per each 200 sq ft of gross floor space, not including areas used only for storage, or one EDU per each 9 or less employees, whichever is greater Public schools shall be exempt from SDC charges set forth by this Resolution
- (22) For commercial uses not listed herein, the assignable EDUs shall be determined by the City on a case-by-case basis comparative to the foregoing commercial uses, or may be calculated on the basis of the actual use of water used divided by the EDU quantity of 300 gpd
- (c) Industrial Establishments
 - (1) The assignable EDUs for industrial uses shall be determined by the City on a case-by-case basis comparative to the foregoing commercial uses, on the basis of the actual use of water used divided by the EDU quantity of 300 gpd, or at the rate of one EDU per each 9 or less employees, or combinations thereof

SECTION 5. SYSTEM DEVELOPMENT CHARGES FOR TRANSPORTATION

1. Except as otherwise provided for in this Resolution or in the authorizing Ordinance No. 1111 as amended, a transportation SDC is imposed on all new or expansion developments requiring or utilizing City transportation facilities. This charge is imposed on all development concurrent with the actual issuance of a building permit or in the case of a manufactured home in a manufactured home park prior to the actual issuance of a placement permit. In the event there is development without the issuance of a building permit, the SDC shall be paid concurrent with any construction associated with the land use development plan approved by the City.
2. The rate of the charges for transportation systems development shall be based on the peak hour vehicular trip generation as set forth in the document entitled "Trip Generation" put forth by the Institute of Transportation Engineers, alternatively the City Planning Director may also consider alternative methods for trip calculations based on other industry approved methodology.
3. Except as otherwise provided for in Section 1.6 of this Resolution subject to City approval, the SDC fee shall be paid concurrent with the issuance of a building permit for new construction or, in the case of a new business in an existing

building or the expansion of an existing use, at the time a building or land use permit is issued that results in a change or expansion in use that impacts the number of individuals in the building and/or the capacity Except as otherwise provided for in this Resolution or the authorizing Ordinance No. 1111 as amended, for a manufactured or mobile home in a manufactured or mobile home park, the SDC fee shall be paid concurrent with the issuance of a placement permit or connection to City sewer and/or water facilities or services

SECTION 6. CREDITS AGAINST SDC FEES

- 1 In the case of an Improvement SDC Fee, credits against such applicable SDC fees and refunds shall be provided for the construction of a qualified public improvement as provided for by ORS Chapters 223.297 to 223.314 and City Ordinance
- 2 Notwithstanding the provisions of this section, a special agreement has been approved by the City for the East 3rd Street and Peters Road Local Improvement Districts; said agreement is set forth as Attachment "A" of this Resolution
- 3 SDC Credit or refund shall be a credit or refund against only the SDC fee applicable to that improvement (e.g. street SDC fees for street improvements, water SDC fees for water improvements, or sewer SDC fees for sewer improvements)
4. Once an SDC Credit or refund is determined to apply to a qualified public improvement, the developer/owner shall enter into an agreement with the City defining the extent of the credit or refund and the manner in which the credit shall be applied to building permits applicable to that project or refunded
- 5 SDC credit or refunds on building permits shall be allowed within ten (10) years after the completion and acceptance of the improvement giving rise to credit or refund unless otherwise approved by the City
6. There shall be no interest accruing on any SDC credit or refund
- 7 There shall be no adjustments made to the amount of any SDC credit as the result of inflation or increase/decreases to the maximum allowable SDC
8. The City Manager or designee shall establish a procedure to provide for a review of requests for credit or refund made pursuant to this section within 30 days of the date of approval of this Resolution, Said procedures shall be reviewed and approved by the City Council. An applicant making such a request, after following the procedure established by the City Manager or designee and approved by the City Council, shall have the right to have any determination made on the request reviewed by the Council in the manner the Council deems appropriate

SECTION 7. APPEAL PROCEDURE

1. A person aggrieved by a decision required or permitted to be made by the City Manager or the designee thereof under these provisions or a person challenging the propriety of an expenditure of SDC revenues may appeal the decision or the expenditure to the City Council by filing a written request with the City Manager or designee thereof, or the expenditure from which the person appeals.
2. An appeal of a decision regarding an assigned SDC fee or a credit or a refund thereto may be appealed to the City Council by filing a written request with the City Recorder within ten(10) days from the date of the decision, describing with particularity the decision from which the person appeals, the sets forth in detail the specific relief requested, and substantiates the basis for the request. The Council shall, at its next regularly scheduled Council meeting within not less than 10 days or more than 21 days of the receipt of such appeal, hear and consider the appeal. The Council may affirm, modify, extend, or overrule said decision in a manner that is consistent with the applicable provisions of this document and/or State Law. The Council decision on the appeal shall be set forth in writing within 21 days of the date of the hearing thereon. The decision of the Council shall only be reviewed as provided in ORS 34.010 to 34.100, and not otherwise.
3. An appeal of an expenditure must be filed within two years of the date of the alleged improper expenditure. The Council shall, at its next regularly scheduled Council meeting within not less than 10 days or more than 21 days of the receipt of such appeal, hear and consider the appeal. The Council decision on the appeal shall be set forth in writing within 21 days of the date of the hearing thereon. The decision of the Council shall only be reviewed as provided in ORS 34.010 to 34.100, and not otherwise. After hearing evidence presented by the appellant and the City Manager and the designee thereof (as applicable), the Council shall determine whether the City Manager's or designee's decision or the expenditure is in accordance with this Resolution and the provisions of ORS 223.297 to 223.314 and may affirm, modify or overrule the decision. If the Council determines that there has been an improper expenditure of SDC revenues, the Council shall direct that a sum equal to the misspent amount shall be transferred from the appropriate facility fund(s) within one year to replace the misspent amount.

SECTION 8. PENALTIES

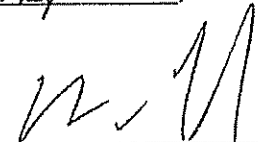
The maximum fine for violation of any provision of this Resolution is \$500

SECTION 9. ENACTMENT

This Resolution and the SDC fees enacted by this Resolution shall be in full force and effect on and after May 9, 2007 in accordance with the schedule set forth in Section 3 of this Resolution.

Passed by the City Council this 8th day of May, 2007

Approved by the Mayor this 8th day of May, 2007.



Mayor Mike Wendel

Attest: 

City Recorder

Date: MAY 8, 2007

January 23, 2008

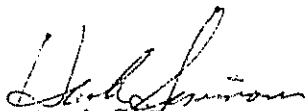
City Council
Rob Corbett
400 NE 3rd Street
Prineville, OR 97754

Dear Mr. Corbett:

Elsie Simmons, in partnership with Simmons Brothers LLC is working to construct a new office building on site address: 143 W. 3rd Street. More specifically between what are now the "Natures Bounty" and the "Bug and Belle" buildings.

Our structure is to be roughly 3650 square feet as per our building plan. As a result of the preliminary meeting and a site plan review meeting we were given an SDC and water/sewer connection fees quote. I am writing you to please put us on the agenda for the February 12, 2008 City Council Meeting so that we may formally appeal the proposed charge.

Please call me personally with any questions. We appreciate your consideration.


Hank Simmons

cc: Mayor Mike Wendel ✓



City of Prineville

387 NE THIRD STREET ♦ PRINEVILLE, OREGON 97754

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EMAIL: rcorbett@cityofprineville.com Web Site: www.cityofprineville.com

Thursday, February 07, 2008

Mr. Hank Simmons
Simmons Brothers LLC
238 N. Main
PO Box 400
Prineville, OR 97754

Re: SDC Appeal of Assessment

Dear Hank,

We have scheduled your appeal of the proposed charge for SDC's at our February 12, 2008 council meeting. The meeting starts at 6:30pm.

I have enclosed a copy of city policy. Pursuant to this policy, I would ask that you please provide the council in writing, details about your appeal including the specific relief requested and the basis under which you are seeking such relief.

If you have any questions, please feel free to contact me.

Sincerely,

Robb Corbett
City Manager

Cc: Prineville City Council