

**TOWN OF PRESCOTT VALLEY
REQUEST FOR COUNCIL ACTION
Date: July 22, 2010**

SUBJECT: Extension of Suspension of Commercial Development Impact Fees

SUBMITTING DEPARTMENT: Town Manager

PREPARED BY: Ryan Judy, Deputy Town Manager for Larry Tarkowski, Town Manager

AGENDA LOCATION: Comments/Communications , Consent , Work/Study ,
New Business , Public Hearing , Second Reading

ATTACHMENTS: a) Original Resolution No. 1461, and b) Amending Resolution No. 1712 Extending Suspension of Assessment of Commercial Development Impact Fees

SUMMARY/BACKGROUND: The Town of Prescott Valley first adopted development impact fees per ARS §9-463.05 and Town Code Article 7-11 on April 27, 1995 (Recreation Fee). A citizen's advisory committee subsequently developed a Capital Improvement Plan from which a comprehensive set of development impact fees (Circulation System Fee, Public Safety Fee, Recreation, Parks and Open Space Fee, and Civic/Cultural Fee) were adopted on February 11, 1999, effective May 12, 1999. Those fees were implemented in phases over a three-year period.

In June 2002, another citizens' advisory committee met to review the fees. The Council later received a report from the committee dated January 30, 2003, and a revised report dated March 28, 2003. The revised report proposed suspending the assessment of the new fees against Retail, Commercial/Office, Industrial, and School developments for up to 36 months in order to encourage those developments. When the Council adopted the proposed new fees by Resolution No. 1183 on May 8, 2003 (effective August 6, 2003), the resolution suspended assessment of the fees as proposed.

On May 25, 2006, pending completion of a new impact fee study and a subsequent adoption of new impact fee rates, the Council by Resolution 1431 extended the suspension on the collection of commercial impact fees for a total of 60 months instead of the original 36 months. On Sept. 14, 2006, the Council by Resolution 1461 adopted new residential and commercial impact fee rates and continued with the suspension of commercial impact fees until August 6, 2008. On June 26, 2008, the Council approved Resolution No. 1590 continuing the suspension for an additional two years until August 6, 2010.

A number of the same issues raised in prior years about the need to encourage commercial development still apply in 2010. Because the Town has no property tax, it is largely dependent on state-shared revenue and local transaction privilege taxes for operations. Interest in Prescott Valley from a commercial standpoint is increasing, but it is feared that assessing these rates would discourage borderline retailers from locating in Prescott Valley. Therefore, it is suggested that the suspension be extended two more years (until August 6, 2012) so as not to deter retailers from constructing their stores in Prescott Valley. Such an extension may be accomplished by adopting an additional amendment to the original Resolution No. 1461.

It should be noted that the Council is being asked to make this decision while a lawsuit by the Home Builders Association of Central Arizona is ongoing against the Town (and the City of Prescott), claiming alleged discriminatory application of impact fees as between residential and commercial development. The Superior Court found in favor of the Town and the City, but the judge's decision was appealed and

the Town and City are awaiting a decision from the Arizona Court of Appeals. Continuing the waiver of the commercial DIFs will essentially allow this suit to continue to play out.

OPTIONS ANALYSIS: Amend Resolution No. 1461 to extend the suspension of assessment of development impact fees to the listed developments, or allow the suspension to lapse and the fees to be assessed as of August 6, 2010.

ACTION OPTION: Motion to authorize the Mayor (or, in his absence, the Vice-Mayor) to sign Resolution No. 1712 amending Resolution No. 1461 and extending the current suspension of development impact fees on certain non-residential development to August 6, 2012, **OR** Motion not to approve Resolution No. 1712. **VOTE.**

RECOMMENDATION: Staff recommends extending the suspension of commercial DIFs for two more years to encourage additional commercial/retail development within Prescott Valley.

FISCAL ANALYSIS: The Town does not have a property tax and is heavily dependent on transaction privilege tax revenue to fund ongoing services. On the other hand, we live in a highly competitive environment to encourage retail prospects to locate within our jurisdiction and contribute to our tax base. To the extent that assessment of development impact fees may adversely affect non-residential development unless suspended, Council must balance the loss of one-time impact fees with increased ongoing transaction privilege tax revenues.

REVIEWED BY:

Management Services Director _____

Town Clerk _____

Town Attorney _____

Town Manager _____

COUNCIL ACTION:

Approved Denied Tabled/Deferred Assigned to _____