



Legislation Text

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Agenda Information Sheet

DEPARTMENT: Development Services

CM/ ACM: Jon Fortune

Date: December 1, 2015

SUBJECT

Receive a report, hold a discussion, and give staff direction regarding a proposed ordinance of the City of Denton, Texas, setting Planning and Development Fees as it concerns gas well drilling and production in the City of Denton and its extraterritorial jurisdiction.

BACKGROUND

On August 4, 2015, the City adopted comprehensive changes to the Gas Well Drilling and Production Ordinance, under Ordinance No. 2015-233, in order to comply with HB 40 (Texas Natural Resources Code, Sec. 81.0523) enacted by the Texas Legislature on May 18, 2015. Ordinance No. 2015-233 went into effect on August 18, 2015 after the required two-week publication period. On August 18, 2015, a corresponding fee schedule modification was proposed. During deliberations for the August 18, 2015, City Council meeting, further discussions were requested on the revised Development Review Fee Schedule once a third-party consultant completed a detailed review of the fees.

After the August 18 discussion, NewGen Strategies & Solutions, LLC began an update to the 2013 Gas Well Fee Study (2013 Study) to incorporate the changes in City employee activities resulting from the passage of Ordinance No. 2015-233. A summary memo and the findings of the update to the 2013 Study are included in the Exhibits to this report.

In addition to the findings from the Study, City staff proposes an incentive to gas well operators that apply for a new Gas Well Development Site Plan within a short period of time. The proposal is to reduce the currently studied fee amounts by 50 percent for 90 days. Based on discussions with Operators conducted during the process to revise Ordinance No. 2015-233, City staff learned most Operators are more likely to apply for a new Gas Well Development Site Plan with this financial incentive and the City would benefit by enabling new Gas Well Development Site Plans to replace a multitude of older Gas Well Development Plats.

The Study calculates a \$3,960 fee for Gas Well Site Plan reviews during the first two years after the fee schedule is adopted. Under Staff's proposal, the fee would be reduced to \$1,980 for 90 days to encourage the necessary updates to older Gas Well Development Plat records. The City currently has records for 343 total gas well site applications. Of those applications, only 212 of the records have been approved. The remaining 131 application records are either still pending approval, awaiting resubmittal, or have been closed. There are currently 311 drilling and Production Sites within the city of Denton and its extraterritorial jurisdiction (ETJ). The city contains 153 sites and 158 are located in the ETJ. Since only 212 site applications have been approved,

it is likely that at least 99 Drilling and Production Sites exist without any corresponding site approval documents. The number may actually be higher than 99 because 71 of the 343 applications were submitted as amended applications.

The proposal to incentivize the respective gas well operators to apply for a Gas Well Development Site Plan is intended as a solution to the current problem that exists regarding the lack of complete records for what exists today. This incentive also encourages fewer long-term sites because the new Gas Well Development Site Plans will act to group multiple wells together. Another recommended change to the annual fee will also incentivize gas well Operators to locate multiple wells on each Drilling and Production Site. The proposed Fee Schedule would also assess the per-well fee under the Annual Inspection and Administrative Review program based on the number of wells at each Drilling and Production Site. The current Annual Inspection and Administrative Review fee assesses the charge for each well, whether the well is singularly located on its own Drilling and Production Site or is located with multiple wells on a shared facility. To incentivize Operators to drill multiple wells and possibly plug older, single-well sites, the annual fee charge would be reduced for each well located on a multi-well Drilling and Production Site.

Two additional revisions to the Fee Schedule were proposed in August. While these two items were not specifically addressed in the consultant's review, both items are included herein for discussion. One proposal was to amend the Development Review Fee Schedule by providing an ability to cover a portion of the administrative costs of collecting past due balances. Collecting P&I requires the City to invoice Annual Inspections on a monthly basis, versus the previous annual invoicing schedule and current bi-annual invoicing schedule. The increase in staff time necessary to generate and mail monthly invoices could be off-set by the City's ability to assess the ETJ Annual Inspection fees per Drilling and Production Site instead of the current per well basis. The final recommended change is to continue the current road damage remediation calculation formula and associated fee; however, the administration of the fee would be established by Ordinance and no longer by an Agreement. The Road Remediation Fee will be due and owing at the time an Operator provides notice to the City of Denton of their intent to perform any applicable activities specific in Ordinance No. 2015-233.

OPTIONS

1. Propose Modifications to Gas Well Fee Study
2. Schedule Public Hearing for new Fee Schedule, as presented
3. Conduct further discussions regarding the new Fee Schedule

RECOMMENDATION

Staff is seeking guidance on their request to pursue a repeal of Fee Schedule Ordinance No. 2013-248 by replacing it with a new Fee Schedule that is consistent with the revised Gas Well Ordinance and is based on the updated Gas Well Fee Study conducted by NewGen Strategies & Solutions LLC.

PRIOR ACTION/REVIEW (Council, Boards, Commissions)

September 4, 2001, Ord. 2001-316 amended Ord. 2000-098 by adding a Development Plats for Gas Extraction fee to the Development Review Fee Schedule.

February 5, 2002, combined gas well plat fees into the Development Review Fee Schedule via Ord. 2002-041.

September 6, 2005, under Ord. 2005-237, adopted new gas well related fees for Gas Well Plat, Amendment to a Gas Well Plat, Watershed Protection Permit, Gas Well Inspection Fee, and Tree Mitigation.

June 7, 2011, adopted Ord. 2011-100 to approve a cost of services analysis that established new planning and development fees relating to gas well drilling and production in the City of Denton and its Extraterritorial Jurisdiction (ETJ).

September 17, 2013, adopted Ord. 2013-248 to set a Fee Schedule that revised the cost of services analysis conducted after the creation of the Gas Well Inspections Division.

EXHIBITS

1. Fee Schedule Ordinance No. 2013-248
2. NewGen Memo (Provided Under Separate Cover)
3. Findings from Gas Well Fee Analysis
4. Gas Well Fees - Presentation 12-1-15

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Aimee Bissett
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