

# TOWN OF COLORADO CITY

## MEETING NOTICE

### Agenda

Pursuant to A.R.S. § 38-431.02, notice is hereby given to the members of the Colorado City Town Council and to the general public that the Town Council will hold a meeting open to the public on Wednesday, December 20, 2023, at 5:00 p.m. at the **Colorado City Town Hall, 25 South Central Street**, Colorado City, Arizona.

#### AGENDA:

1. Call to Order Meeting
2. Roll Call
3. Pledge of Allegiance
4. Ratify Appointment to the Joint Utility Board
5. Appoint the members of Joint Utility Board as the Infrastructure Improvements Advisory Committee for the Town of Colorado City
6. Adjournment

Agenda items and any variables thereto are set for consideration, discussion, approval or other action. All items are set for possible action. The Town Council may, by motion, recess into executive session, which will not be open to the public, to receive legal advice from the Town's attorney(s) on any item contained in this agenda pursuant to ARS § 38-431.03 (A) (3)(4), or regarding sensitive personnel issues pursuant to ARS § 38-431.03 (A) (1), or concerning negotiations for the purchase, sale or lease of real property; ARS § 38-431.03 (A) (7). One or more Council members may be attending by telephone. Agenda may be subject to change up to 24 hours prior to the meeting. Persons with a disability may request a reasonable accommodation by contacting the Town Clerk at 928.875.2646 as early as possible to allow sufficient time to arrange for the necessary accommodations. Town of Colorado City Council Meeting Agenda.

**Town of Colorado City  
COUNCIL MEETING AGENDA  
STAFF SUMMARY REPORT  
Wednesday December 20, 2023**



**5:00 p.m.**

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**4. Ratify Appointment to Joint Utility Board**

**Presenter: Mayor Ream**

In studying the Arizona Statutes relating to impact fees, it spells out that the infrastructure Improvements Advisory Committee members could not be employees of the Town. The IGA expressly states that some of the duties of the Joint Utility Board are to review the land use assumptions, the infrastructure needs and the costs for system expansion and potential impact fees.

Rick White who has served on the Board for the Town is also employed by the Town in the Streets and Roads Department.

The decision was made to remove him from the Joint Utility Board and appoint James Broadbent to fill his place on the Board.

**RECOMMENDATION**      **Motion:**\_\_\_\_\_ **2<sup>nd</sup>:**\_\_\_\_\_ **Vote:**\_\_\_/\_\_\_

Motion to ratify the appointment of James Broadbent to the Utility Board to finish the term ending December 31, 2025

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**5. Consider Appointment of Infrastructure Improvements Advisory Committee.**

**Presenter Vance Barlow, Town Manager**

ARS §9-463.05 G requires that the Town appoint an infrastructure Improvements Advisory Committee or have a biannual audit by qualified professionals who are not involved in the development of the plan. (all of ARS §9-463.05 is in the packet for your reading pleasure).

One of the duties of the Joint Utility Board is to perform that function. The Town only appoints three of the five members and so it was thought prudent to have the Town Council formally appoint all members of the Board for this purpose as it relates to the Town.

**RECOMMENDATION**

Motion to appoint the Joint Utility Board consisting of Ezra Nielson, Sterling Jessop Jr., Theil Cooke Jr., Jesse Barlow and James Broadbent the Infrastructure Improvements Advisory Committee for the Town of Colorado City.

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**6. Adjournment**

9-463.05. Development fees; imposition by cities and towns; infrastructure improvements plan; annual report; advisory committee; limitation on actions; definitions

A. A municipality may assess development fees to offset costs to the municipality associated with providing necessary public services to a development, including the costs of infrastructure, improvements, real property, engineering and architectural services, financing and professional services required for the preparation or revision of a development fee pursuant to this section, including the relevant portion of the infrastructure improvements plan.

B. Development fees assessed by a municipality under this section are subject to the following requirements:

1. Development fees shall result in a beneficial use to the development.
2. The municipality shall calculate the development fee based on the infrastructure improvements plan adopted pursuant to this section.
3. The development fee shall not exceed a proportionate share of the cost of necessary public services, based on service units, needed to provide necessary public services to the development.
4. Costs for necessary public services made necessary by new development shall be based on the same level of service provided to existing development in the service area.
5. Development fees may not be used for any of the following:
  - (a) Construction, acquisition or expansion of public facilities or assets other than necessary public services or facility expansions identified in the infrastructure improvements plan.
  - (b) Repair, operation or maintenance of existing or new necessary public services or facility expansions.
  - (c) Upgrading, updating, expanding, correcting or replacing existing necessary public services to serve existing development in order to meet stricter safety, efficiency, environmental or regulatory standards.
  - (d) Upgrading, updating, expanding, correcting or replacing existing necessary public services to provide a higher level of service to existing development.
  - (e) Administrative, maintenance or operating costs of the municipality.
6. Any development for which a development fee has been paid is entitled to the use and benefit of the services for which the fee was imposed and is entitled to receive immediate service from any existing facility with available capacity to serve the new service units if the available capacity has not been reserved or pledged in connection with the construction or financing of the facility.
7. Development fees may be collected if any of the following occurs:
  - (a) The collection is made to pay for a necessary public service or facility expansion that is identified in the infrastructure improvements plan and the municipality plans to complete construction and to have the service available within the time period established in the infrastructure improvement plan, but in no event longer than the time period provided in subsection H, paragraph 3 of this section.
  - (b) The municipality reserves in the infrastructure improvements plan adopted pursuant to this section or otherwise agrees to reserve capacity to serve future development.
  - (c) The municipality requires or agrees to allow the owner of a development to construct or finance the necessary public service or facility expansion and any of the following apply:

13. If development fees are assessed by a municipality, the fees shall be assessed against commercial, residential and industrial development, except that the municipality may distinguish between different categories of residential, commercial and industrial development in assessing the costs to the municipality of providing necessary public services to new development and in determining the amount of the development fee applicable to the category of development. If a municipality agrees to waive any of the development fees assessed on a development, the municipality shall reimburse the appropriate development fee accounts for the amount that was waived. The municipality shall provide notice of any such waiver to the advisory committee established pursuant to subsection G of this section within thirty days.

14. In determining and assessing a development fee applying to land in a community facilities district established under title 48, chapter 4, article 6, the municipality shall take into account all public infrastructure provided by the district and capital costs paid by the district for necessary public services and shall not assess a portion of the development fee based on the infrastructure or costs.

C. A municipality shall give at least thirty days' advance notice of intention to assess a development fee and shall release to the public and post on its website or the website of an association of cities and towns if a municipality does not have a website a written report of the land use assumptions and infrastructure improvements plan adopted pursuant to subsection D of this section. The municipality shall conduct a public hearing on the proposed development fee at any time after the expiration of the thirty day notice of intention to assess a development fee and at least thirty days before the scheduled date of adoption of the fee by the governing body. Within sixty days after the date of the public hearing on the proposed development fee, a municipality shall approve or disapprove the imposition of the development fee. A municipality shall not adopt an ordinance, order or resolution approving a development fee as an emergency measure. A development fee assessed pursuant to this section shall not be effective until seventy-five days after its formal adoption by the governing body of the municipality. Nothing in this subsection shall affect any development fee adopted before July 24, 1982.

D. Before the adoption or amendment of a development fee, the governing body of the municipality shall adopt or update the land use assumptions and infrastructure improvements plan for the designated service area. The municipality shall conduct a public hearing on the land use assumptions and infrastructure improvements plan at least thirty days before the adoption or update of the plan. The municipality shall release the plan to the public, post the plan on its website or the website of an association of cities and towns if the municipality does not have a website, including in the posting its land use assumptions, the time period of the projections, a description of the necessary public services included in the infrastructure improvements plan and a map of the service area to which the land use assumptions apply, make available to the public the documents used to prepare the assumptions and plan and provide public notice at least sixty days before the public hearing, subject to the following:

1. The land use assumptions and infrastructure improvements plan shall be approved or disapproved within sixty days after the public hearing on the land use assumptions and infrastructure improvements plan and at least thirty days before the public hearing on the report required by subsection C of this section. A municipality shall not adopt an ordinance, order or resolution approving the land use assumptions or infrastructure improvements plan as an emergency measure.

2. An infrastructure improvements plan shall be developed by qualified professionals using generally accepted engineering and planning practices pursuant to subsection E of this section.

3. A municipality shall update the land use assumptions and infrastructure improvements plan at least every five years. The initial five year period begins on the day the infrastructure improvements plan is adopted. The municipality shall review and evaluate its current land use assumptions and shall cause an update of the infrastructure improvements plan to be prepared pursuant to this section.

4. Within sixty days after completion of the updated land use assumptions and infrastructure improvements plan, the municipality shall schedule and provide notice of a public hearing to discuss and review the update and shall determine whether to amend the assumptions and plan.

2. An analysis of the total capacity, the level of current usage and commitments for usage of capacity of the existing necessary public services, which shall be prepared by qualified professionals licensed in this state, as applicable.
3. A description of all or the parts of the necessary public services or facility expansions and their costs necessitated by and attributable to development in the service area based on the approved land use assumptions, including a forecast of the costs of infrastructure, improvements, real property, financing, engineering and architectural services, which shall be prepared by qualified professionals licensed in this state, as applicable.
4. A table establishing the specific level or quantity of use, consumption, generation or discharge of a service unit for each category of necessary public services or facility expansions and an equivalency or conversion table establishing the ratio of a service unit to various types of land uses, including residential, commercial and industrial.
5. The total number of projected service units necessitated by and attributable to new development in the service area based on the approved land use assumptions and calculated pursuant to generally accepted engineering and planning criteria.
6. The projected demand for necessary public services or facility expansions required by new service units for a period not to exceed ten years.
7. A forecast of revenues generated by new service units other than development fees, which shall include estimated state-shared revenue, highway users revenue, federal revenue, ad valorem property taxes, construction contracting or similar excise taxes and the capital recovery portion of utility fees attributable to development based on the approved land use assumptions, and a plan to include these contributions in determining the extent of the burden imposed by the development as required in subsection B, paragraph 12 of this section.

F. A municipality's development fee ordinance shall provide that a new development fee or an increased portion of a modified development fee shall not be assessed against a development for twenty-four months after the date that the municipality issues the final approval for a commercial, industrial or multifamily development or the date that the first building permit is issued for a residential development pursuant to an approved site plan or subdivision plat, provided that no subsequent changes are made to the approved site plan or subdivision plat that would increase the number of service units. If the number of service units increases, the new or increased portion of a modified development fee shall be limited to the amount attributable to the additional service units. The twenty-four month period shall not be extended by a renewal or amendment of the site plan or the final subdivision plat that was the subject of the final approval. The municipality shall issue, on request, a written statement of the development fee schedule applicable to the development. If, after the date of the municipality's final approval of a development, the municipality reduces the development fee assessed on development, the reduced fee shall apply to the development.

G. A municipality shall do one of the following:

1. Before the adoption of proposed or updated land use assumptions, infrastructure improvements plan and development fees as prescribed in subsection D of this section, the municipality shall appoint an infrastructure improvements advisory committee, subject to the following requirements:

- (a) The advisory committee shall be composed of at least five members who are appointed by the governing body of the municipality. At least fifty per cent of the members of the advisory committee must be representatives of the real estate, development or building industries, of which at least one member of the committee must be from the home building industry. Members shall not be employees or officials of the municipality.

- (b) The advisory committee shall serve in an advisory capacity and shall:

refund is paid. If the development fee is paid by a governmental entity, the refund shall be paid to the governmental entity.

K. A development fee that was adopted before January 1, 2012 may continue to be assessed only to the extent that it will be used to provide a necessary public service for which development fees can be assessed pursuant to this section and shall be replaced by a development fee imposed under this section on or before August 1, 2014. Any municipality having a development fee that has not been replaced under this section on or before August 1, 2014 shall not collect development fees until the development fee has been replaced with a fee that complies with this section. Any development fee monies collected before January 1, 2012 remaining in a development fee account:

1. Shall be used towards the same category of necessary public services as authorized by this section.
2. If development fees were collected for a purpose not authorized by this section, shall be used for the purpose for which they were collected on or before January 1, 2020, and after which, if not spent, shall be distributed equally among the categories of necessary public services authorized by this section.

L. A moratorium shall not be placed on development for the sole purpose of awaiting completion of all or any part of the process necessary to develop, adopt or update development fees.

M. In any judicial action interpreting this section, all powers conferred on municipal governments in this section shall be narrowly construed to ensure that development fees are not used to impose on new residents a burden all taxpayers of a municipality should bear equally.

N. Each municipality that assesses development fees shall submit an annual report accounting for the collection and use of the fees for each service area. The annual report shall include the following:

1. The amount assessed by the municipality for each type of development fee.
2. The balance of each fund maintained for each type of development fee assessed as of the beginning and end of the fiscal year.
3. The amount of interest or other earnings on the monies in each fund as of the end of the fiscal year.
4. The amount of development fee monies used to repay:
  - (a) Bonds issued by the municipality to pay the cost of a capital improvement project that is the subject of a development fee assessment, including the amount needed to repay the debt service obligations on each facility for which development fees have been identified as the source of funding and the time frames in which the debt service will be repaid.
  - (b) Monies advanced by the municipality from funds other than the funds established for development fees in order to pay the cost of a capital improvement project that is the subject of a development fee assessment, the total amount advanced by the municipality for each facility, the source of the monies advanced and the terms under which the monies will be repaid to the municipality.
5. The amount of development fee monies spent on each capital improvement project that is the subject of a development fee assessment and the physical location of each capital improvement project.
6. The amount of development fee monies spent for each purpose other than a capital improvement project that is the subject of a development fee assessment.

O. Within ninety days following the end of each fiscal year, each municipality shall submit a copy of the annual report to the city clerk and post the report on the municipality's website or the website of an association of cities and towns if the municipality does not have a website. Copies shall be made available to the public on request. The annual report may contain financial information that has not been audited.

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requirements of this section, and may be the municipality's capital improvements plan.

6. "Land use assumptions" means projections of changes in land uses, densities, intensities and population for a specified service area over a period of at least ten years and pursuant to the general plan of the municipality.

7. "Necessary public service" means any of the following facilities that have a life expectancy of three or more years and that are owned and operated by or on behalf of the municipality:

(a) Water facilities, including the supply, transportation, treatment, purification and distribution of water, and any appurtenances for those facilities.

(b) Wastewater facilities, including collection, interception, transportation, treatment and disposal of wastewater, and any appurtenances for those facilities.

(c) Storm water, drainage and flood control facilities, including any appurtenances for those facilities.

(d) Library facilities of up to ten thousand square feet that provide a direct benefit to development, not including equipment, vehicles or appurtenances.

(e) Street facilities located in the service area, including arterial or collector streets or roads that have been designated on an officially adopted plan of the municipality, traffic signals and rights-of-way and improvements thereon.

(f) Fire and police facilities, including all appurtenances, equipment and vehicles. Fire and police facilities do not include a facility or portion of a facility that is used to replace services that were once provided elsewhere in the municipality, vehicles and equipment used to provide administrative services, helicopters or airplanes or a facility that is used for training firefighters or officers from more than one station or substation.

(g) Neighborhood parks and recreational facilities on real property up to thirty acres in area, or parks and recreational facilities larger than thirty acres if the facilities provide a direct benefit to the development. Park and recreational facilities do not include vehicles, equipment or that portion of any facility that is used for amusement parks, aquariums, aquatic centers, auditoriums, arenas, arts and cultural facilities, bandstand and orchestra facilities, bathhouses, boathouses, clubhouses, community centers greater than three thousand square feet in floor area, environmental education centers, equestrian facilities, golf course facilities, greenhouses, lakes, museums, theme parks, water reclamation or riparian areas, wetlands, zoo facilities or similar recreational facilities, but may include swimming pools.

(h) Any facility that was financed and that meets all of the requirements prescribed in subsection R of this section.

8. "Qualified professional" means a professional engineer, surveyor, financial analyst or planner providing services within the scope of the person's license, education or experience.

9. "Service area" means any specified area within the boundaries of a municipality in which development will be served by necessary public services or facility expansions and within which a substantial nexus exists between the necessary public services or facility expansions and the development being served as prescribed in the infrastructure improvements plan.

10. "Service unit" means a standardized measure of consumption, use, generation or discharge attributable to an individual unit of development calculated pursuant to generally accepted engineering or planning standards for a particular category of necessary public services or facility expansions.