

**A MEMORANDUM  
RELATIVE TO  
IMPACT FEES  
FOR  
DUNHAM ESTATES SUBDIVISION**

**DATE: MARCH 7, 2003**

The purpose for this memorandum is to request that my development project be excluded from the requirement to pay impact fees as initiated by the June 4, 2003 initiated measure. I do however reserve all rights to question the validity of the initiated measure and ordinance. I submit the following rationale for this request:

1. The referendum and ensuing ordinance places the impact fees on all connections to the City utilities which are made after the date of the election or the date the election was certified. Some question seems to exist as to which date is the trigger, but that is unimportant to my request.
2. The ordinance stated that the fee should be collected when the connection to the City water system is made or when a building permit is issued, whichever is earlier.
3. The city attorney has recently stated that his research of case law suggests that, in the Harmony Heights matter, a "vested property claim" may exist because he believes that Harmony Heights may have had a "completed application" to make the connection to the water system which existed prior to the election date. Harmony Heights therefore has been deemed to be exempt from paying the fees.
4. Mr. Bjerke, public works director, stated in his e-mail dated 2/24/03 that **the prior approval** of the Harmony Heights project was the reason that the project was exempt from the impact fees.

In the case of Dunham Estates, the land development plans were submitted to the City for approval prior to the election date. During the course of City staff review and approval, the water and sewer connections to the new water and sewer mains were required to be shown and they are clearly shown on the plans. Therefore, I submit the following:

1. The Dunham Estates project design, including the connections to water and sewer mains, was approved by the City prior to the election date of June 4, 2002. I therefore believe that I also had a "completed application and a vested property claim" just as Harmony Heights has been determined to have. Although the project was delayed due to the mayoral veto, the Court determined that the approval occurred on May 20, 2002.
2. The project design clearly shows connections to the water and sewer mains for each lot. The water and sewer lines extend onto each individual lot. No building permit is required for the project as it is a land development project, therefore the approval of the development engineering plans should be the determining criteria.
3. Approval of the design, including the water and sewer connections, before the date the impact fees became law, in my opinion, makes the project exempt from the fees.
4. The project construction is progressing; the water and sewer connections to the mains are complete; and no further approval of the connections is needed. This work would have been completed much earlier except for the project delays caused by the necessary litigation. The only added requirement for an owner of a home in order to obtain water is for them to order a water meter and initiate water service from the City water department.
5. Other projects, including Harmony Heights and projects in Rapid Valley, have had fees exempted because of similar circumstances.
6. Impact fees should not be assessed for homes to be constructed on the lots in Dunham Estates, because the water and sewer connections to the City systems and the extension of the service lines onto the owners property is being done under the previously approved development project.

I therefore request that Dunham Estates and the homes to be built be specifically exempted from the impact fees and ask the Council to pass a resolution to this effect.

Respectfully submitted,

George F. Dunham