Ordinance 06-44

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF WESTFIELD, INDIANA AMENDING ORDINANCE 03-24

WHEREAS, on October 13, 2003 the Town Council ("Council") of the Town of Westfield, Indiana ("Town") adopted Ordinance 03-24 providing for the payment of availability and connection costs for developers and new users of the Town of Westfield Water Works; and

WHEREAS, the Council encourages proper development of the Town; and

WHEREAS, the Council is desirous of amending Ordinance 03-24 to allow a discount for developers in certain situations;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF WESTFIELD, INDIANA AS FOLLOWS:

Section 1. Paragraph 4 of Ordinance 03-24 is hereby amended by the addition of language which is underlined and the removal of language which is stricken through:

4. Manner of Payment. Payment of the availability and connection costs shall be made at the following times and in the following manner:

    a. At detail plan approval, or conditional use approval and before any utility construction commences the availability fees of One Thousand Five Hundred and Thirty Dollars (~~$1530.00~~) per each equivalent dwelling unit shall be paid. Said payment shall be paid into the following accounts of the Availability Fee Fund.

        i. Availability Fee Master Account. One Thousand Two Hundred and Eighty Dollars ($1280) shall be paid into the Availability Fee Master Account.

        ii. Availability Fee Reimbursement Account. Two Hundred and Fifty Dollars ($250) shall be paid into the Availability Fee Reimbursement Account. This account shall be used to provide reimbursements to developers who oversize and/or extend water mains pursuant to the Master Plan set out in

paragraph 8 below. Contracts under this account shall be negotiated by the Town Public Works Director and approved by the Westfield Town Council. Any developer meeting the terms of paragraph 8 below, shall receive as a credit, up to Two Hundred and Fifty Dollars ($250) per EDU on land developed or owned by the developer as a credit for payment to the Availability Fee Reimbursement Account. The balance of credits shall be paid in cash as set out in paragraph 8 below. The payments under this account shall be made only from funds available and shall be paid to the developer in order of approval of the Reimbursement Agreements approved by the Westfield Town Council. Specifically, prioritized reimbursement cash payments will only be paid when the full amount of reimbursement is available in the account to be paid. The Director of Public Works shall approve all cash payments from this account.

b. At the issuance of the water permit, Five Hundred Dollars ($500) per equivalent dwelling unit (EDU) shall be paid. Said payment shall be placed entirely into the Water Tap Fee Fund.

c. All availability and connection costs shall be due and payable upon application for a ~~sewer~~ water permit for any new user if the lot or land of the new user was not assessed an initial connection fee under either Section (4)(a) above, or a prior ordinance of the Town.

d. Funds contained in or contributed to the Availability Fee Fund, and the rights of developers to such funds, are expressly subject and subordinate to the pledge of such funds, as it may be continued from time to time, to the holders of the Town's Waterworks Revenue Bonds. The Town shall take no actions under this Ordinance 03-24 in conflict with such pledge or the rights of the holders of such Revenue Bonds.

e. A developer may choose to enter into a Water Service Availability Agreement with the Town in which case the price to be paid, per EDU shall be the lesser of the Town's prevailing rate, as established by ordinance and existing at the time payment is due, or at a discount of 10%.

Section 2. The actions of the Town staff working under this Ordinance are to be deemed in conformity with Town policy.

Section 3. Any portion of this Ordinance that may later be deemed invalid shall not effect the remaining provision.

Section 4. This Ordinance shall be in full force and effect in accordance with Indiana law, upon its passage and any publication and applicable waiting period, as provided by the laws of the State of Indiana.

ALL OF WHICH IS ORDAINED this _____ day of _____, 2006.

WESTFIELD TOWN COUNCIL

Voting For	Voting Against	Abstain
Robert J. Smith	Robert J. Smith	Robert J. Smith
John B. Hart	John B. Hart	John B. Hart
David Mikesell	David Mikesell	David Mikesell
Teresa Otis Skelton	Teresa Otis Skelton	Teresa Otis Skelton
Ron Thomas	Ron Thomas	Ron Thomas

ATTEST:

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Clerk-Treasurer, Cindy J. Gossard

This Ordinance prepared by:
Sue A. Beesley
Bingham McHale LLP