



MEMO TO: Mayor Vandernail and the Board of Trustees
FROM: Rob Clemens, Finance Director
DATE: January 10, 2023
SUBJECT: Service Access Fees on Vacant Land

MATTER BEFORE BOARD:

Mr. Ron Anderson requested a review of the service fees he is paying for his two taps on vacant property located at 315 Eastom Ave, Fraser, CO 80442. Mr. Anderson's letter requests a refund of some of his fees while continuing to have access to taps on his vacant property.

BACKGROUND:

In 1994 Mr. Anderson, of Anderson Plumbing, purchased the land located at 315 Eastom Ave, Fraser, CO 80442 from a bank after the lot was in foreclosure. Two existing water taps were included in the land purchase. He began paying quarterly service fees at this time.

In 2000 Mr. Anderson began the planning process to build condominiums on the property, but did not progress beyond the planning phase.

In 2010, the Board of Trustees passed Ordinance No. 367 to create a Water Wastewater Committee and Mr. Anderson was appointed as a member.

Mr. Anderson reported in his letter to the Board that he brought up the issue of fees for unused taps in 2010. It was unclear if this came before the Board or the Committee, but it is assumed his appeal was rejected or blocked.

In October 2016, the Board of Trustees made several code changes regarding service fees in Ordinance No. 436.

1. to reduce water and sewer service fees to 33% of the base service fees during the construction period from issuance of building permit to issuance of a certificate of occupancy
2. to reduce vacant platted residential lot availability of service fees to 5% of the base water and sewer service fees

Ten months later, in August 2017, the Board of Trustees passed Ordinance No. 447 to repeal the vacant land fee reductions.

In 2018, Mr. Anderson put the property on the market for \$400k and advertised the land included two water taps.

In 2021, Mr. Anderson began the process to appeal the service fees. During the appeal process he has stopped payment on his quarterly service fees.

In July 2022, Mr. Anderson presented his appeal to the Board of Trustees with a written request for some form of refund of service access fees paid.

In November 2022, Mr. Anderson confirmed that he received the rights to the water taps when he purchased the property, but no physical service lines exist on the property.

There are approximately 9 unmetered taps in the Town Limits which qualify as vacant land. Of the 1184 metered accounts, there are approximately 9 abandoned structures and up to 40 properties with meters, but zero consumption.

The difference between vacant land and land under development was established in the 2016 code updates with the use of construction milestones. These include the building permit and certificate of occupancy. PIF or tap fees are paid in conjunction with the building permit. Water and Sewer service fees are reduced to 33% of the normal base service fee until a certificate of occupancy is issued and then resume full billing. These are defined milestones which incentivize active development of land. Vacant land lacks a timetable for use, but still requires active Town expense to maintain and monitor the infrastructure.

The current service cost of one water tap is \$153.00 per quarter. The service fees for two taps are approximately \$1,224 per year. The current rate for a new water tap is \$7,700. The discrepancy between ongoing service fees and the current tap fees is at the core of Mr. Anderson's desire for reimbursement. However, Mr. Anderson was never charged any tap fees as the value of the two water taps were included in his original purchase of the land. The lack of actual service to the property does not change the value of water access to the property. This access has been supported by Town commitments to produce enough water to serve current and potential Equivalent Residential Units (EQR). The Town also bears additional wastewater costs, which are allocated based on the number of taps issued. Therefore, service charges for taps do correlate with real Town expenses regardless of actual use.

The Board of Trustees has approved fee waivers in the past. These included specific hardship cases while a dwelling was uninhabitable and construction challenges delayed the remedy.

ALTERNATIVES CONSIDERED:

- Change the municipal code
 - Establish a timeline for vacant land with taps to acquire a building permit or relinquish the taps for other development.
 - Create a new fee waiver for vacant land

RECOMMENDATION:

Given that a fee reduction option for vacant land was tested and repealed by the Board of Trustees; the current municipal code does not grant a reduced fee structure. Changes to the municipal code for 9 properties would not be cost effective or efficient. A fee reduction not based on the municipal code creates a dangerous precedent for fees necessary to cover the expenses to produce and treat safe drinking water.

The advance knowledge of the service fee requirements make Mr. Anderson's fees over time a sunk cost in his land investment. The Town is not required to apply taxpayer dollars to subsidize private investment.

There is no evidence of a hardship case similar to past situations where fee waivers were granted.

Therefore it is recommended that the Board of Trustees reject Mr. Ron Anderson's request and allow Mr. Anderson to pursue the following options:

- Pay any service fees due
- Continue to pay quarterly service fees until one of the following occurs:
 - Property is sold
 - Property is developed
 - Taps are relinquished to the Town