



City of Prineville

DEPARTMENT OF PLANNING & COMMUNITY DEVELOPMENT STAFF REPORT & ISSUE SUMMARY

Date: January 7, 2010

Request: The Prineville-Crook County Airport Commission is requesting that a new business (Bend Wireless) be allowed to utilize the water and sewer system capacity granted to the Airport Commission in a December 2007 Council Decision.

Staff: Scott Edelman, Senior Planner

Background:

In 2006 a revised airport master plan was approved to include 64 hangars on land owned by Crook County and managed by the Airport Commission. In November of 2007, Stephen Erb received land use approval for an upholstery business in one of these hangars and was assessed water, sewer and traffic system development charges (SDCs) of \$10,470.09. The upholstery business would serve the general public as well as provide upholstery services for aircraft, which was the reason for locating in a hangar. Mr. Erb appealed these charges to City Council based on the arguments that SDCs are bad for developing businesses and that his particular business would have a very limited impact on the City water, sewer and transportation system.

On November 13, 2007 City Council made the decision to charge the full SDCs of \$10,470.09 to Mr. Erb (Exhibit B). However, the appeal initiated a broader discussion between City Council and the Airport Commission on an appropriate SDC assessment for the remainder of the hangars. City Council approved the following motion as described in the minutes from the November 13, 2007 meeting:

Council Member Noyes moved that we approve the appeal recommendation of 1 EDU calculation for the SDC fee to be evaluated at a future date from an incremental time frame to be established by staff with a potential for adjustments of EDU calculations and associated SDC fees based on the 300 gallons per day calculations which establishes the 1 EDU allotment.

City Attorney Carl Dutli stated it covers the sewer and water pretty well, but transportation, it does not affect that. He asked Ms. Sites if she was comfortable enough with this?

Ms. Sites stated she would like to hear mentioned that should there be an application for commercial use, then additional SDCs may be applied.

Council member Noyes added to his motion that should the application for commercial use or any use other than aircraft as mentioned in previous City correspondence or policy, would require review by the City and possible application of further SDCs charges associated with that use could be applied.

Councilor Member Uffelman seconded the motion.

After a brief discussion, the motion passed unanimously.

City Attorney Carl Dutli and Community Development Director Ricky Sites drafted a Decision on Airport Hangar System Development Charges (Exhibit A) to formalize this decision. This document was discussed at the November 27 and December 11 City Council meetings. At the November 27 meeting, Airport Commission members stated concern about potential businesses in the hangars causing them to exceed the allotted 300 gallons per day of water usage:

Jim Petersen, Vice Chairman of the Airport Commission stated their comment has to do with paragraph #3. They felt that some of the issue seems to be, if there is going to be too much water usage and they go over one EDU. The council is asking to place a separate meter on a separate hangar and then bill the Airport Commission for that meter. They would request that the City bill the hangar owner for that meter. They would also request that if we charge the hangar owner for another EDU, that they go from 300 gallons per day to 600 gallons per day, so effectively they will go to two EDUs.

Mr. Petersen stated as he understands it from what they read and from what they discussed at their meeting, is that the City is reserving the right to charge a SDC to a new hangar, if they go over and they are going to charge that, if they have one hangar that is a commercial hangar that is utilizing more water and they are going over the 300 gallons or if they have a commercial hangar that the City decides to charge a SDC fee.

Council Member Noyes stated he believes what Mr. Petersen is saying, if you alter the use of the space for other than storage than another SDC may apply to that use.

Council Member Uffelman stated if that were the case, then that individual hangar would be separate and isolated and that would not have any impact on remaining 63 hangars.

Mr. Petersen stated it says, you are only going to monitor the 2" water line, is that correct?

City Attorney Carl Dutli stated how they envisioned it, because the City cannot put in a new line, you put a line in from your 2" meter. They would monitor that

and give the City hose readings, then the person who is receiving the water from that separate meter off of the 2" line would be billed separately and that amount would come off the total that is run through the meter. If you don't give us the information, then the Airport Commission is stuck paying.

Frank Porfily, Airport Commissioner, the whole point is this is all going through a 2" meter and the Airport will be charged for it all. Their concern is if a commercial enterprise comes in and starts using extra water, then will it come out of their capacity of 300 gallons and then charge another EDU to the whole thing? What Mr. Dutli explained that it would be subtracted off and it really is not an issue if that happens.

Council Member Roppe stated what she heard them say is that they wanted that expense of putting that additional meter in, to be charged to the person who owns the hangar, not to the Commission. Mr. Petersen agreed.

On December 11, the Council approved the written decision included as Exhibit A. Unfortunately, at the time of this report staff could not locate a signed copy of this decision. It is undetermined whether this document was never signed or if it was lost in transition with staff turnover. Regardless, the minutes from the December 11, 2007 meeting serve as evidence that the attached decision was approved. City staff discussed the issue of a lack of signature with Carl Dutli who indicated that the decision is still valid based on the minutes of the meeting.

The excerpts from the minutes above are unclear as to whether a business that is charged additional SDCs would be treated entirely separate from the other hangars or if an additional EDU would be added to the allowed capacity for the entire hangar complex (increase from 300 gpd to 600 gpd). The attached decision does allow for the Airport Commission to utilize more system capacity by paying additional SDCs but it does not specifically reference whether SDCs assessed to a business per item #3 could increase the overall capacity of the hangar facility. Significantly, there is no mention in the minutes or the decision about the SDCs charged to Mr. Erb for his upholstery business. Mr. Erb paid SDCs for one EDU of water and sewer capacity but no additional capacity was given to the overall hangar complex.

Due to the ambiguity of the document and the incongruity between certain statements made in the minutes, staff is of the position that we are to assess full SDCs for a business in the Airport Commission hangar complex unless City Council allows them to utilize existing capacity from the 2007 Council Decision.

Current Issue:

Tom and Karen Baccari contacted the City recently asking about requirements for moving their Bend Wireless Business into one of the hangars managed by the Airport Commission. A letter to the Airport Commission describing the business is attached as

Exhibit C. Bend Wireless currently sells aviation and land mobile communication equipment and proposes to establish an avionics shop in Prineville from which they can sell their equipment and also install it directly into airplanes at a hangar. Based on the 2007 Council Decision (Exhibit A) and the decision on Mr. Erb's appeal of SDCs assessed to his upholstery business (Exhibit B) staff informed them that they would be charged full SDCs like any other business in town.

The City was then contacted by Frank Porfily of the Airport Commission who requested that this business be allowed to utilize the 300 gallons per day allocated to the Airport Commission hangars under the 2007 Council Decision. He stated that the Airport Commission would be willing to purchase an additional EDU (to increase to 600 gpd) if the business caused them to exceed their allotment. Mr. Porfily stated that the Airport Commission had voted in support of this request but the City has not received written documentation of this vote. City staff informed Mr. Porfily and the Baccari's that only City Council has the authority to reduce SDCs or to interpret the 2007 Council Decision to allow utilization of the Airport Commission's allotted capacity.

Mr. Porfily also brought up the fact that Mr. Erb had paid SDCs for an additional EDU but that it had not been added to the overall capacity of the hangar facility. Mr. Porfily asked if the Airport Commission would be able to "buy out" Mr. Erb's EDU to add an additional 300 gallons per day of usage to the hangar facility, which would include Mr. Erb's usage and, potentially, the Bend Wireless business. Staff informed him that this would also be an issue for City Council consideration.

Representatives of the Airport Commission are expected to speak at the January 12, 2010 Council Meeting along with the business owners.

Consideration:

From the perspective of City staff, there are four primary issues for Council to consider in determining how to respond to the request from the Airport Commission to allow certain businesses to utilize their allocated water and sewer system capacity rather than be assessed additional SDCs:

1. Usage and impact on the long-term viability of the City's water and sewer system.

The purpose of SDCs is to ensure sustainability of City facilities through development paying for its approximate impact on the water, sewer and transportation systems. In the case of the Airport Commission hangar complex, the 2007 Council Decision protects the City in two ways. First, it requires the Airport Commission to pay additional water and sewer SDCs if the overall usage exceeds 300 gallons per day. Second, it allows the City to assess additional SDCs for a hangar that is utilized for anything besides airplane storage.

Based on the minutes cited in this report, the discussion behind the 2007 Council Decision did appear to leave open the possibility of allowing a business to utilize the

Airport Commission's capacity as long as the Airport Commission paid the additional SDCs if total usage ever exceeded 300 gallons per day.

At present, the hangar facility is approximately 50% built out. Water usage records indicate that average daily usage over the past 12 months is 149 gallons per day. Over the past 3 months the average is 181 gallons per day. It is important to note that these figures do include the usage by Mr. Erb's upholstery business for which he paid SDCs for a separate EDU. Based on these figures, there is certainly existing capacity but it is likely that the hangar facility will approach, and may exceed, the 300 gallons per day limit by the time full build-out is achieved.

The proposed business has only two employees so the anticipated water usage is anticipated to be minimal. Staff does not see a significant threat to the long-term viability of the water or sewer system if the proposed business would be allowed to utilize existing Airport Commission capacity.

2. Fairness in assessing SDCs citywide

One of the primary concerns of staff in regard to allowing businesses to locate in Airport Commission hangars and utilize the hangar facility's water and sewer capacity is fairness to other property owners in the City. It would not be fair if a business could locate in another commercial area in town but went to the Airport Commission hangars because of leniency on SDCs. For this reason, if City Council chooses to allow businesses to utilize capacity allocated to the Airport Commission, staff recommends that City Council only consider businesses that have a valid reason for needing to locate in an airport hangar.

In this case, the business is proposing to install communication equipment directly into airplanes and, thus, has a legitimate reason for locating in an airport hangar rather than another commercial area in the city.

3. Precedent

Possibly the biggest issue for Council to consider is precedent. As described above, Mr. Erb's appeal of the SDCs charged for his upholstery business sparked the discussion that led to the 2007 City Council decision on the Airport Hangar SDCs; yet, Mr. Erb was required to pay full SDCs. Although the products and services being sold are different, there is very little difference between the upholstery business and the Bend Wireless business related to the issue of SDCs. Both install their product directly into airplanes as well as servicing the general public and both are limited in employees to the business owner(s).

Mr. Porfily verbally presented one possible alternative to addressing the issue of precedent, other than charging Bend Wireless full SDCs. Mr. Porfily stated that the Airport Commission might be willing to reimburse Mr. Erb for the EDU if the City would increase the water and sewer capacity from 300 gallons per day to 600 gallons per day.

Mr. Erb's water usage would then become part of the Airport Commission's allocation. At the time of the 2007 Council decision on hangar SDCs, the possibility of adding Mr. Erb's EDU to the allotted capacity for the Airport Commission was not discussed, though the general concept was part of the discussion and, according to the minutes cited in this report, was not refuted as a possibility.

4. Traffic SDCs

Regardless of the Council's decision on whether to charge full SDCs to Bend Wireless or to allow them to utilize Airport Commission capacity, staff is of the opinion that any business locating in the hangar complex should pay traffic SDCs. Traffic SDCs are different in that the Airport Commission was not allocated a certain number of trips in the 2007 Council decision like they were water usage. A business with employees and customers has a significantly larger impact on the City's transportation system than a hangar used solely for storing airplanes.

Based on two employees (the same basis used in calculating SDCs for Mr. Erb), the traffic SDC for Bend Wireless would be \$2,480.48 (equivalent of 0.84 peak hour trips).

City Council Options:

1. Charge full SDCs to Bend Wireless in accordance with the City's SDC policies, and item #3 on the 2007 decision.
2. Allow the Airport Commission to include Bend Wireless in their water usage capacity, thereby not assessing Bend Wireless water and sewer SDCs at this time. This would be contingent upon the Airport Commission paying additional SDCs if overall usage for the hangar facility exceeds 300 gallons per day per item #2 on the 2007 Council decision.
3. Approve option 2 above with the additional provision that the Airport Commission can reimburse Mr. Erb for the water and sewer SDCs paid for the upholstery business. This would increase the water/sewer allocation of the Airport Commission from 300 gallons per day to 600 gallons per day. This would also cause the water usage by Mr. Erb's business and Bend Wireless to count toward the 600 gallon per day limit.

Additional Question for Council:

If City Council decides on either option #2 or option #3 above, does Council wish to review all similar future requests on a case-by-case basis or should staff develop a process and criteria for reviewing such requests administratively?

Exhibits:

Exhibit A – 2007 Decision on Airport Hangar System Development Charges

Exhibit B – 2007 Decision on Erb Appeal of SDC Fees

Exhibit C – Letter from Bend Wireless describing business

Exhibit A

DECISION ON AIRPORT HANGAR SYSTEM DEVELOPMENT CHARGES

WHEREAS, the Prineville/Crook County Airport Commission ("Commission") applied for 64 airplane hangars; and

WHEREAS, all 64 hangars will be served by one 2-inch water meter; and

WHEREAS, the City's Planning Department determined that the 64 hangars would be assessed System Development Charges ("SDCs") equal to six equivalent dwelling units ("EDUs"); and

WHEREAS, the Commission appealed this assessment; and

WHEREAS, a hearing on the appeal was conducted November 13, 2007; and

BASED UPON the information presented at the hearing the Prineville City Council makes the following decision on the appeal:

1. The Commission shall be assessed SDCs equal to one EDU for a total of \$11,960.17 for the 64 hangars. This assessment is based upon water usage of less than a total of 300 gallons per day between all 64 hangars.
2. If water usage for the hangars increases to a consumption of over 300 gallons per day for 30 consecutive days the City may require the Commission to pay additional SDCs computed as follows: number of gallons used in the measuring period divided by the days in the measuring period with the quotient being divided by 300. That quotient shall be rounded up to the next whole number, which will equal the number of EDUs to be paid at the then current SDCs rate. If there are further increases in water use, the same formula shall be used to compute additional SDCs owing.
3. City has the right to assess additional EDUs and charge corresponding additional SDCs for uses in any hangar other than airplane storage. In such event that hangar shall be separately metered by and at the expense of the Commission and the water usage from that hangar shall not be attributed to the remaining hangars on the single meter so long as the Commission reads the separate meters on the same dates the City reads the 2-inch water meter and immediately provides such readings to the City.
4. This decision is based on the specific facts regarding these hangars and therefore, does not have any precedential value for SDCs on future airplane hangars.

Approved by the City Council on December _____, 2007.

Signed by the Mayor this _____ day of December, 2007.

Mike Wendel, Mayor

DECISION ON STEPHEN ERB APPEAL OF SDC FEES

WHEREAS, Stephen Erb applied for a site plan review in order to conduct an aircraft upholstery business in a hangar at the Prineville-Crook County Airport; and

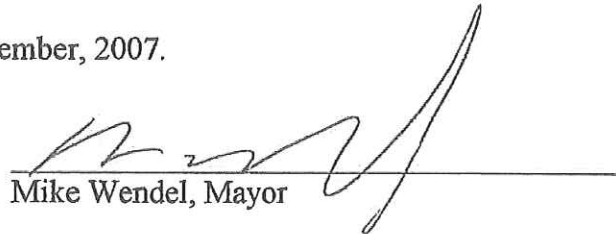
WHEREAS, the total SDC fees charged by the City of Prineville for the use was \$10,470.09; and

WHEREAS, Stephen Erb appealed this assessment; and

WHEREAS, a hearing on the appeal was conducted December 11, 2007; and

BASED UPON the testimony of Stephen Erb and Ricky Sites and considering the Planning Department's staff report and Stephen Erb's appeal letter and the records and files herein, the Prineville City Council unanimously affirmed the decision of the Planning Department and Stephen Erb is required to pay the SDC fees in the amount of \$10,470.09.

Signed by the Mayor this 18th day of December, 2007.


Mike Wendel, Mayor

SDC & Water/Sewer Connection Fees			
Location of Property: 4013 SW Aviation Blvd.			
Application: C-SPR-07-08-106			
Description of project: 3025sq.Ft. Airport hanger for use as an upholstery buisness			
<i>Transportation SDC</i>	<i>Adj. Factor</i>	<i>Per employee</i>	<i>TOTAL</i>
\$2,893.43	0.25	1	\$723.35
			TOTAL \$723.35
<i>Water SDC</i>	<i>1 EDU/9 employees</i>	<i># of EDUs</i>	<i>Total</i>
\$2,558.74	1	1	\$2,558.74
			TOTAL \$2,558.74
<i>Sewer SDC</i>	<i>1 EDU/9 employees</i>	<i># of EDUs</i>	<i>Total</i>
\$6,508.00	1	1	\$6,508.00
			TOTAL \$6,508.00
<i>Water Connection</i>	<i>Water Pipe</i>	<i>Water pipe needed</i>	<i>Total</i>
\$430.00	3/4"	Shared	\$0.00
\$490.00	1"		
\$1,120.00	1 1/2"		
\$1,350.00	2"		
			TOTAL \$0.00
<i>Water Meter</i>	<i>Water Pipe</i>	<i>Water pipe needed</i>	<i>Total</i>
\$111.40	3/4"	Shared	\$0.00
\$210.95	1"		
\$379.52	1 1/2"		
\$532.41	2"		
			TOTAL \$0.00
SEWER CONNECTIONS			
The fee which is to be paid for such connections shall be computed by multiplying the "Base Single Family Dwelling Unit" (D.U.) fee of \$680.00 times the following dwelling unit equivalents for each type of connection specified.			
Base EDU			
\$680.00			\$680.00
			TOTAL \$680.00
SDC WATER/SEWER CONNECTION COSTS=			\$10,470.09

BEND Wireless

361 SE Logsdan Street #100

Bend, Oregon 97702

(541) 385-8099

Fax (541) 385-8105

Exhibit C

Prineville Airport Commission

P.O. Box 1284

Prineville, Oregon 97754

Dear Ms. Reid;

Our company Bend Wireless is in the process of becoming a Repair Station to service and install avionics equipment in general aviation aircraft. We are asking if you would please present our proposal to the Prineville Airport Commission for their review.

Bend Wireless' intent is to bring an Avionics shop to the Prineville-Crook County Airport. We are attempting to secure a lease for the older Les Schwab hanger. Bend Wireless at the present time sells aviation radios, microphones, intercoms, headsets, etc... We are an ICOM authorized dealer. ICOM manufactures: portable, panel mount and base station radios for general aviation.

Our current land mobile business services: Crook County Sheriff, Crook county Fire & Rescue, Prineville Police Department, Crook County Road Department and the Crook County Landfill. It is the intent of Bend Wireless to operate both businesses from the Prineville-Crook County Airport.

We have been in touch with Eldon Nimmo, airport manager and discussed plans to bring our avionics shop to the airport. We feel that we have his full support.

BEND Wireless

361 SE Logsdan Street #100

Bend, Oregon 97702

(541) 385-8099

Fax (541) 385-8105

To date we have completed the pre-application process to become a Repair Station. We have had our pre-certification meeting with the Federal Aviation Administration, Portland Flight Standards District Office. We are currently involved in the process of writing our manuals to complete the certification requirements.

At our present location in Bend our lease is up November 30, 2009. We would like to move ahead with our plans, specifically to secure the lease of Les Schwab's hanger. We are asking for your approval and support of our venture. Thank you again for your time and consideration.

Sincerely;

Tom & Karen Beccari