

City Council Agenda Items
and
Contracts, Leases or Agreements

2/21/2012

City Council Meeting Date
Agenda Items Only

Paul A Becker

Submitted By

Finance

Division

Finance and Internal Services

Department

Action Required:

This request is to rescind Resolution 117-00 which would allow the Adiministration to eliminate the convience fee for payments received by the City through the Cities financial system. This would result to the initial loss of approximately \$103,000 but would encourage efficiencies in procceing payments and result in the delay of future staff increases.

\$103,000

Cost of this request

\$

-

Category / Project Budget

Program Category / Project Name

\$

-

Account Number

Funds Used to Date

Program / Project Category Name

\$

-

Project Number

Remaining Balance

Fund Name

Budgeted Item

Budget Adjustment Attached

Paul a. Becker

Department Director

2-7-2012

Date

Previous Ordinance or Resolution #

Original Contract Date:

K. ...

City Attorney

2-7-2012

Date

Original Contract Number:

Paul a. Becker

Finance and Internal Services Director

2-7-2012

Date

Received in City Clerk's Office 02-07-12 A11:00 RCVD

Kim O.

Don ...

Chief of Staff

2-7-12

Date

Received in Mayor's Office

ENTERED
2/7/12
PH

Paul ...

Mayor

2/7/12

Date

Comments:

CITY COUNCIL AGENDA MEMO

To: The City Council

Thru: Mayor Jordan

From: Paul A Becker

Date: 2/7/2012

Subject: Elimination of the credit card convenience fee for credit card payments

PROPOSAL:

As you are well aware, the most frequent complaint we all receive concerning the billing system is "why the City charges a convenience fee for the use of a credit card". Since Mayor Jordan was elected he has been communicating his desire to eliminate this fee. Additionally, most of you as Council members have expressed to the administration the desire to eliminate this fee. Although, I initially recommended the fee be eliminated as a part of a rate change, because of new systems developed by the City which expand the ability of citizens to pay amounts due the City by credit card, I now believe and have recommended to the Mayor that this is the appropriate time to eliminate the fee. The Mayor has always supported the elimination of the fee as many of you have. To accomplish this, resolution 117-00 must be rescinded by the Council.

The arguments against the use of a convenience fee are as follows:

- The processing cost to the City are reduced if an account is paid by credit card since there is little manual handling required.
- If the City is truly supporting a greener economy, the avoidance of a credit card fee encourages the use of a check which must be mailed requiring the use of paper. Thus requiring less paper, mail processing, routing, and transportation to City Hall or Post Office to mail the payment.

These are strong reasons that support the need to eliminate the convenience fee.

RECOMMENDATION:

Therefore, on behalf of Mayor Jordan, I am requesting the City Council rescind resolution 117-00 which would allow us to eliminate the convenience fee on credit card payments paid through City maintained systems.

BUDGET IMPACT:

The initial impact of this request will result in a loss of \$103,000 in convenience fee collections. However, the elimination of the fee will encourage the use of credit card payment which will reduce the need for manual intervention. This will in turn defer the need to expand personnel to accommodate our growing customer base to future periods. It will also reinforce the Cities commitment to encourage the reduction of paper used associated with payment by check.

RESOLUTION NO. _____

A RESOLUTION TO REPEAL RESOLUTION NO. 117-00 AND TO AUTHORIZE THE ADMINISTRATION TO FORGO REQUIRING CUSTOMERS USING A CREDIT OR DEBIT CARD TO PAY A "CONVENIENCE FEE" FOR SUCH USAGE

WHEREAS, the administration believes it would be more efficient and cost effective to end the requirement of the current "convenience fee" charged to credit and debit card customers.

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby repeals Resolution No. 117-00 and authorizes the Administration to forgo requiring customers using a credit or debit card to pay a "convenience fee" for such usage.

PASSED and **APPROVED** this 21st day of February, 2012.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

By: _____
SONDRA E. SMITH, City Clerk/Treasurer

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

KIT WILLIAMS, CITY ATTORNEY
DAVID WHITAKER, ASST. CITY ATTORNEY



LEGAL DEPARTMENT

DEPARTMENTAL CORRESPONDENCE

TO: **Lioneld Jordan**, Mayor
Don Marr, Chief of Staff
Paul Becker, Finance Director
Marsha Hertweck, Accounting Director
Rainy Laycox, Billing and Collection Manager

FROM: **Kit Williams**, City Attorney

DATE: **January 6, 2010**

RE: **Requiring Service Charge Payment for Credit Card Use**

A decade ago, Budget Director Stephan Davis wrote a memo to Mayor Hanna and the City Council supporting the allowance of use of credit cards by water and sewer customers. In this memo, Mr. Davis stated categorically:

“The City is prohibited by state statute from absorbing the discount fees assessed by credit card companies for transactions paid with credits cards.”

In 2006, I was asked about this and informed the Billing and Collections Manager and Accounting Manager that the statute cited by Mr. Davis in support of his statement did not “require the City to charge a service fee for credit cards used to pay water bills.”

I did point out that the City policy has been established by Resolution No. 117-00 which states:

“A convenience fee shall be charged for such use of a credit (debit) card in the amount more or less equivalent to the discount fee charged by the servicing bank or financial institution.”

In my memo of September 26, 2006, I then stated:

“We are required to abide by this Resolution. I could find no absolutely clear statutory requirement to charge a service fee for water, sewer or sanitation fees in the Arkansas Code.”

It could be argued that without charging this “convenience fee”, the City would not be **collecting** the minimum rate set by our water, sewer, and solid waste rate ordinances, even though the customer would be **paying** the minimum rate. Our collection would be slightly less than the payments.

A.C.A. §14-234-103 **Improvements; issuance of bonds** states: “The ordinance shall fix the minimum rate or rates for water to be **collected** prior to payment of all of the bonds” (emphasis added) Without charging the existing “convenience fee”, the City would technically not be **collecting** the minimum rate. This chapter of the State Code deals primarily with bonds for water works and their repayment. The more detailed sewer requirements are found in A.C.A. §14-235-223 which uses “paid” rather than “collected.”

CONCLUSION

Unless allowing the use of credit card payments without the additional “convenience fee” would endanger our water revenue bond payments, I do not believe there is a statutory requirement for such “convenience fee.”

In my memo of September 26, 2006, I then stated:

“We are required to abide by this Resolution. I could find no absolutely clear statutory requirement to charge a service fee for water, sewer or sanitation fees in the Arkansas Code.”

It could be argued that without charging this “convenience fee”, the City would not be **collecting** the minimum rate set by our water, sewer, and solid waste rate ordinances, even though the customer would be **paying** the minimum rate. Our collection would be slightly less than the payments.

A.C.A. §14-234-103 **Improvements; issuance of bonds** states: “The ordinance shall fix the minimum rate or rates for water to be **collected** prior to payment of all of the bonds ...” (emphasis added) Without charging the existing “convenience fee”, the City would technically not be **collecting** the minimum rate. This chapter of the State Code deals primarily with bonds for water works and their repayment. The more detailed sewer requirements are found in A.C.A. §14-235-223 which uses “paid” rather than “collected.”

CONCLUSION

Unless allowing the use of credit card payments without the additional “convenience fee” would endanger our water revenue bond payments, I do not believe there is a statutory requirement for such “convenience fee.”

**SCANNED
MICROFILMED**

RESOLUTION NO. 117-00

A RESOLUTION ALLOWING CREDIT /DEBIT CARDS TO BE USED WHEN MAKING CERTAIN PAYMENTS TO THE CITY OF FAYETTEVILLE, AND ESTABLISHING A CONVENIENCE FEE FOR SUCH USE.

WHEREAS, §34.02, Collection of Funds, of the Code of Fayetteville, provides that the department of finance shall have the responsibility for collection of funds for the City of Fayetteville in accordance with the rules and regulations adopted by the City Council, and;

WHEREAS, the City Council wishes to amend the rules and regulations to allow for the use of credit/debit card and to establish a convenience fee for such use.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1. Credit/debit cards may be used for the payment of utility deposits, monthly utility bills, municipal court fines and fees, park fees, and other City fees. A convenience fee shall be charged for such use of a credit/debit card in an amount more or less equivalent to the discount fee charged by the servicing bank or financial institution.

PASSED AND APPROVED this 15th day of August, 2000.



APPROVED:

By: _____

Fred Hanna
Fred Hanna, Mayor

By: _____

Heather Woodruff
Heather Woodruff, City Clerk



