

PUBLIC WORKSHOP

IMPACT FEE UPDATE

MARCH 6, 2008

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March 6, 2008

PUBLIC WORKSHOP OF THE INDIAN RIVER COUNTY
BOARD OF COUNTY COMMISSIONERS

The Board of County Commissioners of Indian River County, Florida, held a Public Workshop at the County Commission Chambers, 1801 27th Street, Vero Beach, Florida, on Thursday, March 6, 2008, to provide an Impact Fee Update. Present were Chairman Sandra L. Bowden, Commissioners Joseph E. Flescher, Peter D. O'Bryan, and Gary C. Wheeler. Vice Chairman Davis joined and departed the Workshop intermittently. Also present were County Administrator Joseph A. Baird, County Attorney William G. Collins II, and Deputy Clerk Athena Adams.

1. CALL TO ORDER

Chairman Bowden called the meeting to order at 1:31 p.m., with Vice Chairman Davis absent.

2. PLEDGE OF ALLEGIANCE

Chairman Bowden led the Pledge of Allegiance to the Flag.

3. PRESENTATIONS

A. STAFF OVERVIEW OF IMPACT FEES

Community Development Director Bob Keating presented staff's overview of the Impact Fees. Through a PowerPoint presentation he defined what an impact fee is and/or does, and what an impact fee is not, which is a tax. He said an impact fee is a one time capital charge for new development, and existing developments do not pay impact fees. An impact fee implements Capital Improvement Element, and Capital Improvement Program improvements that are identified by jurisdiction.

Director Keating outlined the legal principles that have to be met in establishing an impact fee, which include a Dual Rational Nexus Test where the fees need to be proportional to need, or fees spent have to provide benefits; Proportionate Share Principles, which do not charge for higher level of service, or do not charge twice for the same level of service; and State law. One requirement of State enacted Legislation is that fees need to be based on the most recent and localized data. He stated that in order to establish or to modify an impact fee, there needs to be documented information, objective criteria, and a defensible methodology, which means there needs to be a detailed study done to document different aspects and or need for a change in fees.

Director Keating discussed the need for a defensible methodology and disclosed that there are two basic methodologies for doing impact fee ordinances: a consumption based methodology, and an improvements based methodology. He believed most studies are done using the consumption based methodology, which is the methodology being used in this County. He explained what each methodology entails and gave examples of advantages from a consumption based methodology. He presented a basic impact fee formula, explained how impact fee revenue may be used, and how impact fees may be distributed.

(Clerk's Note: Vice Chairman Davis joined the Workshop at 1:40 p.m.)

Director Keating then presented a brief background of impact fees as it relates to Indian River County, the history of which goes back to 1986 when the County first established traffic impact fees. He also disclosed that as of May 2005 eight (8) impact fees were adopted. There are a total of nine (9) impact fees, seven (7) of which are enforced Countywide and two in the unincorporated areas. He also explained that Section 1000.13(2) of the Impact Fee Ordinance requires that the Impact Fee Schedule be reviewed by the Board of County Commissioners at least once every third year, hence the current Workshop.

(Vice Chairman Davis departed the Workshop at 1:45 p.m.)

In conclusion, Director Keating announced that all backup materials for today's meeting, including the Chamber of Commerce Task Force report, the Treasure Coast Builders Association report, and a response to those reports from Duncan Associates, were available on the County's website at <http://www.ircgov.com>. On that website there is also a link to the County's Land Development Regulations, and our Impact Fee Ordinances, which shows what our current impact fee is and what the Rules are.

B. IMPACT FEE TASK FORCE PRESENTATION OF IMPACT FEE TASK FORCE REPORT

Penny Chandler, Indian River County Chamber of Commerce Director, reminded the Board of its decision last June to not approve an impact fee task force, under the auspices of the County, but consented to the area Chambers of Commerce initiating and facilitating an impact fee task force. Subsequently they approached a cross-section of people and invited groups and individuals to participate in their impact fee work group, to review and make recommendations

to the County regarding the impact fee report and recommendations submitted by Duncan Associates. She then identified the members of the Task Force review group as follow:

Maria Aguilar Town Manager, represented the Town of Orchid - replaced in November by Debb Branwell.

Chris Bieber, Indian River National Bank, represented Commercial Banking

Andy Boler, Habitat for Humanity, represented Affordable Housing

Robert Bradshaw, Town Manager, represented the Town of Indian River Shores

Brian Curley, P&S Properties, represented Commercial Development

Cheri Fitzgerald, City of Vero Beach, Planning Office

Robert Keating, Director of Community Development, represented Indian River County Government.

Chip Landers, residential Broker, represented Realtors Association of Indian River County, the Professionals Realty

Dr. Dan McIntyre, represented the Indian River County School Board

Chuck Mechling, Pointe West, represented the Indian River County Chamber of Commerce

Al Minner, Sebastian City Manager, City of Sebastian

Honey Minuse, represented the Indian River Neighborhood Association (IRNA)

Jason Nunemaker, City Manager, City of Fellsmere

Nancy Offutt, represented the Treasure Coast Builders Association

Joseph Paladin, represented the Growth Awareness Committee

Peter Robinson, Laurel Homes, represented the Indian River County Economic Development Council.

Terry Torres, commercial Broker, Bird Realty Group, represented the Realtors Association of Indian River County

Don Wright, represented the Sebastian River Area Chamber of Commerce

Frank Watanabe, Certified Traffic Engineer, employed by Neel-Schaffer

Beth Mitchell, Director, Sebastian River Chamber of Commerce

Penny Chandler, Indian River County Chamber of Commerce

Ms. Mitchell and Ms. Chandler facilitated the Impact Fee Task Force.

(Clerk's Note: Commissioner Flescher exited the Workshop at 1:50 p.m. and returned within the minute)

Beth Mitchell and Ms. Chandler took turns reporting on the process, which included the frequency of the meetings, how the Task Force group reviewed the report, and the sections of the Report that were reviewed (Traffic, Schools, Parks, Libraries and Law Enforcement). The sections of the Report that were not addressed are: Corrections, Public Buildings, Solid Waste and Fire Rescue. The Task Force created an additional section that was entitled, "Quantifying the Impact."

Ms. Chandler felt the members of the Task Force should be commended for their time, energy and commitment to get the job done in a meaningful manner. She disclosed what the group had discussed, and how the meetings were conducted.

Ms. Mitchell presented the Committee's recommendations, and reported that the City of Vero Beach representative abstained from voting on every item, and there were some absent members who did not participate. The Task Force Committee's recommendations for the following entities are:

Transportation	-	Motion to maintain current rate –Passed 12- 0 (1 abstention)
Schools	-	Motion to maintain current rate – Passed 12-0 (1 abstention)
Parks	-	Motion to maintain current rate – Passed 12-0 (1 abstention)
Libraries	-	Motion to maintain current rate – Passed 12-0 (1 abstention)

Law Enforcement - Motion to **accept** Consultant's Report and increase the fees accordingly - Passed 6-4 (2 abstentions)

Quantifying the Impact - Motion to look at not only the increase of fees, but also the current impact fees and how they impact creation of jobs and the profitability of new commercial facilities - Passed 10-0 (2 abstentions)

The Task Force Committee unanimously agreed that they would add one more recommendation: "The Task Force unanimously supports and request that the Board of County Commissioners visit Creative Solutions to meeting future infrastructure needs." There were no abstentions and no one voted in opposition.

At the request of Chairman Bowden, Ms. Mitchell explained what "Creative Solutions" entailed.

C. TREASURE COAST BUILDERS ASSOCIATION PRESENTATION OF IMPACT FEE ANALYSIS REPORT

Kirk Swanson indicated that he was retained by Treasure Coast Builders to conduct a technical review of the Duncan Associates impact fee update completed in 2007. Through a slide presentation, he provided an impact fee analysis based on the Duncan Report dated July 2007. He argued that the uncertainty of the times should prohibit any increase in impact fees. Although the methodology presented by Duncan is correct, they felt that several of the data components and several of the assumptions within the study were either misleading, outdated, or could be updated with more current information.

Mr. Swanson disclosed that the economic concerns they have with the fees is that they will in fact add an undue burden to the cost of a family house or a residence. He thought it was a misnomer to think that impact fees do not affect newcomers. He displayed a chart which indicated that if the impact fees are adopted, there would be a total of close to 63% of the existing families within the County being shut out of the housing market. To simplify the analysis, they looked at median income and compared that to the fees being proposed. They also looked at traffic and road impact fees, and school impact fees. He explained the issues they have with school impact fees and related that Duncan Associates relied on a limited sample to calculate their facility cost.

Mr. Swanson presented an overview of the total impact fee result as a consequence of applying the variables he used in calculating the impact fees mentioned before, and compared it with the recommendations of the Consultant. He felt there was a lot of information to consider. He argued that impact fees should not be used to replace existing capacity; there needed to be a segregation of existing from the new capacity, and charge the development with their proportionate fair share traffic impact fee as a result of that variable. Mr. Swanson thereafter responded to questions from the Board as follow:

Chairman Bowden questioned whether Mr. Swanson had taken into consideration student station vacant availability, when he was looking into student stations. She also asked how many student stations were available.

Commissioner Wheeler questioned whether Mr. Swanson had said we were using impact fees collected to repave Streets.

D. CONSULTANT PRESENTATION OF IMPACT FEE UPDATE REPORT

Clancy Mullen, Duncan & Associates, Infrastructure Finance Director, presented a brief overview of the Report/Study they prepared. He introduced his team: Jim Duncan, FAICP, President of Duncan Associates, and serving as Principal in charge of this Project, himself as Project Manager, Jim Nicholas, PhD, and Thomas G. Wright, Esquire.

His overview entailed a summary of fee update, response to criticisms, updated maximum fees, comparisons with other Florida counties, and a revenue-neutral option. He also presented a chart which showed an updated summary of the maximum impact fees of a current single-family unit, and he explained how they justified the highest fees calculated.

(Clerk's Note: Vice Chairman Davis rejoined the meeting at 2:27 p.m.)

Mr. Mullen reported that for traffic impact fees they used the most current cost-capacity estimates and previous travel demand factors; they also retained a 15% reduction factor (a policy decision by the Board in 2004), and fees were increased 55-58% for all land uses. He discussed the "critique of traffic methodologies," which includes cost of lane reconstruction in road widening, and the inclusion of the State Road improvements costs.

Mr. Mullen displayed a chart showing where we are in relation to other counties for Florida County Road fees. He talked about school impact fees, showing an updated cost per student, and an updated credit per student, which costs he believed are reasonable. He reported that student generation rates were declining and were down 19%. He also addressed park impact fees, which total cost per person increased about 35%; credit per person decreased 46%; and without State land, fees increased only 22%. He explained that the criticism was that Parks fees should be based on planned improvements as opposed to the consumption base approach, and

that fees should be based on “Permanent plus Weighted Peak Population,” which is what the Comprehensive Plan talks about in terms of the level of service.

Mr. Mullen discussed Florida County Park fees, Revenue-Neutral fees, and looked at County total non-utility fees. He thereafter concluded his report stating that impact fees did not cause building slowdown and that freezing fees would not stimulate growth. He said there is an existing inventory of unsold homes that have already paid impact fees, and reducing or freezing impact fees would not have any effect on clearing out that inventory. He suggested the Board might want to consider prioritizing fees, and if no increase, and they wanted to keep it revenue-neutral, they could look at which ones they want to do. He strongly urged the Board to consider updating the fees based on the new study, as opposed to simply leaving them alone, because they would be defensible.

4. PUBLIC DISCUSSION

Commissioner O’Bryan addressed the issues of cost as presented in the Report. He asked whether, instead of debating over the cost figures, they could debate the methodology and come up with a model that says every six (6) months we could plug in our current price and reflect a change. **Mr. Mullen** explained how best they could achieve an impact fee calculation.

Commissioner Flescher addressed an earlier comment from Mr. Mullen regarding the non-effect of impact fees on environmental growth in the City of Destin, and did not believe it was a fair comparison. **Mr. Mullen** explained how he arrived at the methodology he had, and how he approached his fact findings.

Vice Chairman Davis asked if there was a way of working into the system, at the time of Charter School enrollment, to get some accurate numbers as far as services being provided, that are not costing us as much money as the study purported. **Mr. Mullen** said they did an adjustment for Charter School enrollment, and the student generation rates were taken into account.

Commissioner Wheeler observed that Broward County's fees were "way low", and asked if it was because they were on build-out and not building new roads. He also inquired if they were charging what they needed to charge for impact fees, or whether they were funding their infrastructure in other ways. **Attorney Wright** and Mr. Mullen responded to the former and other questions from Commissioner Wheeler regarding the determination to put these State lands under Parks and Recreation.

Commissioner Wheeler liked the idea of not raising impact fees, but questioned where the extra money would come from if we were to build new roads and not raise impact fees.

Chairman Bowden called a break at 3:07 p.m. and reconvened the meeting at 3:21 p.m. with Commissioners Davis and Flescher absent; both returned at 3:23 p.m.

George Vital, 5000 16th Street, felt what we really need is an efficiency study of how the government can save taxes. He could not see how the poor people of this County could afford more money for a house. He was against the increase in impact fees, and hoped the Board would weigh both sides.

Chuck Mechling, 1999 Pointe West Drive, was bothered that the current Report discussed so much about the Tindale-Oliver Report. He agreed that growth needs to pay for itself, but questioned, at what cost. He hoped the Board would take time to review the numbers. He felt the issues not being discussed were the commercial and industrial aspects. He read a

statement, which outlined the negative effects an increase in impact fees would have on the community. He believed that adding more fees on top of our current fees at this point in time would not assist in that process, and what would assist is a more viable base in our community that allows direct flow of money into the County's coffers, which allows for services to be provided.

Don Simon disclosed that he was a Certified Financial Planner, a Chartered Financial Consultant, Chairman of the Board of Indian River National Association of Insurance & Financial Advisors, and he was speaking only on his behalf. He was concerned that he was seeing no inflation adjustment in the figures in the impact fees. He was also seeing a 15% discount factor, and did not understand the rationale where that was pulled from. He felt that with the tax decrease in the budget, if we do not increase impact fees, we would have more negative economics. He was also concerned that the Report showed no factors for Libraries. He asked the Board to give strong consideration to being realistic when looking at the numbers.

Harry Zambelli, 1794 Tamarind Place, questioned whether interior roads within a development were included in the cost factor. In regard to land values used in cost determinations, he asked if the highest and best use criteria were used. He did not think it was a bad idea that we have this type of plan, but thought it would need a lot of work to pull the inequities and the questions out.

Maria Dfulchini, 1206 5th Place, President of the Realtors Association of Indian River County, and speaking on behalf of over 1,000 Realtors, felt the proposed increase would be unfair to consumers. She outlined several of the negative impacts such an increase would present. She expressed that homeownership is the cornerstone of the American dream, and increasing impact fees diminishes that dream. She declared that the Realtors Association cannot and does not support the proposed increases of impact fees, as it would only hinder the recovery of the real estate market and the overall economy of this area.

Chris Bieber, 645 38 Court, and member of the Task Force Review group, expressed concerns regarding the increase in impact fees, and the issues he has with the Report. He felt there needed to be an ongoing look at running the County more like a business. He also felt the County needed to take a look at the level of service it is providing and then determine if this was the best use of our funds at this time.

Honey Minuse, President of the Indian River Neighborhood Association (IRNA), and a participant in the Task Force review group, dissented from the opinions of the review committee. She believed the development industry must pay for the cost of impact on our community, and that the Board should accept the Consultant's report and move on.

Nancy Offutt, Government Affairs Director for the Treasure Coast Builders Associations, took exception to Ms. Minuse's comments that she represented "the only organization speaking for the taxpayers." Ms. Offutt talked about the vital role the construction industry has played in this economy and the State, and discussed the negative impacts on the community if fees were raised. She asked the Board to consider infrastructure, schools, etcetera, and to be conservative. She suggested the County look at the levels of service it has adopted and then decide which ones are realistic, which ones can we afford, and which ones are too expensive for Indian River County.

Duane Weise, 8485 Seacrest Drive, disagreed with a former speaker that impact fees have no effect on existing property owners. He thought that was misleading and explained how fees are eventually passed on to owners. He asked the Board to be cautious and to look at the effect on the total population of the County, and not just the people moving in.

Debra Ecker, 550 Riomar Drive, had prior experience developing an econometric model for forecasting revenues and expenditure. She said she was favorably impressed with the Duncan Report, but kept waiting to hear something about how they were going to be forecasting

future expenses. Ms. Ecker argued that if we do not have impact fees or if we have them unrealistically low, taxpayers would be burdened with taxes. She recommended that the Board, sustaining the idea of the application of impact fees, endorse at least the base of the Duncan Report, but perhaps ask them to come up with some projections for the future, in the next five years.

Peter Robinson, 315 Greytwig Road, and a member of the Task Force review group, pointed out that the County's first concern should not be whether we want to raise impact fees, but should be looking at how much money the County is "sitting on" and has not spent. He clarified that the County has \$60 million in its traffic account for roads that it has not spent, and a lot of which is over seven (7) years in age. He challenged the County to examine its levels of service, and urged the Board to take a break on raising impact fees, until we get some real numbers on expenditures. He suggested the County needed to help "little people" and, "If you want to do the roads, spend your penny sales tax on it, raise your gas tax, and then use the impact fees."

Administrator Baird felt compelled to correct some of Mr. Robinson's comments regarding the law of tax. He and Mr. Robinson engaged in discussion regarding the system as set up by the State Legislator, repairs to roads and bridges, and the use of sales tax and impact fees for those projects.

Don Wright, Sebastian, a participant on the Impact Fee study, and who wrote the section on Parks and Recreation, had problems with the way the Consultants did their reports, because "everything they did is historical." He reminded the Board that the impact fee law said, "It needs to be proportionate to the need, and it needs to provide benefit for the new resident." He thought there was a major flaw in how the study was done because it did not define specifically what that "need" is and how much it is going to cost for specific projects. He referred to the economic

meltdown facing Florida and the County, and spoke about how other counties are off-setting their impact fees.

(Vice Chairman Davis departed the Workshop at 4:15 p.m.)

Attorney Wright thought the Board should be seriously looking at emergency meetings to establish an emergency economic stimulus package for the County, to stop the decline here. He thereafter responded to questions from Commissioner Wheeler.

Joseph Paladin, President of Black Swan Consulting, and a member of the Task Force review group, spoke regarding the Tindale- Oliver Report, and said they all agreed that those numbers and the rationale for those numbers were flawed, and could not be justified. He thought a re-analysis of the original report was needed. He also argued that when we raised impact fees the last time, we all supported it because we thought it was best for our County; now is a different time, and is not what is best for our County. He said the last time we raised impact fees we did not realize the cumulative effect raising the fees would have on commercial development. He believed that based on the Tindale-Oliver Report, the Duncan Report “could not come out right.” He thought we needed to hold off on raising impact fees and conduct more reviews and in-depth studies.

Brian Curley, 4101 Ocean Drive, and a member of the Task Force review group, did not support the increase in impact fees. He thought all costs are passed to end users, which means developers do not actually pay for impact fees.

Andy Boler, Indian River Habitat for Humanity, said they are against any increase in impact fees. He strongly recommended that the Board do not raise impact fees, but if the County were to do so, he would have to ask for an exemption from any increase.

Chip Landers, Realtor representative on the Impact Fee Review Committee, explained the differences in opinion he has with the Duncan Report. He posed questions to the Consultants regarding a revenue-neutral proposal and what it would mean to impact fees if that were approved, and by how much would it raise the current impact fees. Mr. Landers asked the Board to consider homeowners who have to pay more. He informed the Board that there is a suggestion from the State Impact Fee Review Task Force that affordable housing be excluded. He believed this was the wrong time for an increase, and reiterated Mechling's comments that we do not need any additional "nails in the coffin." He hoped the Board would consider all the facts and look at the current situation. He begged the Board not to price us out of the market.

Victor Demattia, 29 Sailfish Road, Engineer, reviewed the facts of impact fees in relation to usage and benefits. He urged the Board to get creative with frugality, to use prudent application of fees, and to not subsidize special interests.

Richard Bialosky, Oyster Shell Lane, discussed the negative impacts of a fee increase, and though it was a bad time in the market to do this.

Ann Reuter, member of the Indian River County School Board, Vero Beach resident, speaking for herself, not for the School Board, mentioned some of the questions asked by the School Board regarding "where this money would come from." She said the School Board was really worried about the economy. She argued that impact fees are supposed to be for new growth and could not be used for needed areas in the schools. They are worried they will not have the funds to go into each classroom. She believed it was impact fee enough when a new homeowner has to pay more in taxes than his/her neighbor.

David Ederer, Seahawk Lane, talked about the amount of taxes paid by taxpayers last year, and was concerned about the tax burden. He believed now was not the time to increase impact fees.

Ital Veron, 280 Peppertree Drive, supported the impact fee increase, particularly as it related to residential development. He thought that if we did less than increase the fees, it would be just another form of corporate subsidies or corporate welfare. He did not agree with the subsidizing of agricultural lands or of the sugar industry.

Chairman Bowden, for the record, contradicted the opinion that agricultural lands are subsidized. She noted that “Ag lands/citrus never gets any subsidy, never has; sugar does.”

Mr. Veron argued that if certain projects carry that much margin in them (a range of savings), developers could somehow absorb some of the impact rather than pass it on.

Wayne Kleinstiver, 4080 8th Place, who made a presentation to the Impact Fee Study group, argued that homes in certain zip codes of the County were constructed before we even had impact fees. He questioned how many of those homeowners were now benefiting from some of the infrastructure that was put in by impact fees. His point being that a lot of the people in the County benefit from what these impact fees pay for. However, he thought it was not timely to raise impact fees at this time.

Seeing no other speakers, the Chairman closed the public input section of the Workshop.

Chairman Bowden appreciated everyone taking the time to attend the Workshop. She invited everyone to write in to the Board with input on this issue.

5. QUESTION AND ANSWER SESSION

Commissioner O’Bryan said he had suggestions for staff going forward. He addressed comments from certain speakers regarding new homeowners paying higher taxes because of the “Save our Home” discrepancy, and comments about impact fees paying for all infrastructure.

Commissioner O’Bryan expressed his personal concerns that builders were not coming in and building affordable homes. He wanted to see the Board take the time to discuss the matter in a timely manner; he did not support lowering our level of service standards as it is what makes this County unique; and he did not think any temporary pause or freeze in the current impact fees would be subsidizing any new development. His big concern was that the methodology we are using right now does not allow us to move or adjust those impact fees in a timely manner either up or down, to take into account current market conditions and the cost involved to provide that infrastructure.

Commissioner O’Bryan agreed with Mr. Mechling and did not think that the State road pricing should be included when we look into traffic cost and construction. On the issue of affordable housing, he wanted to see, instead of three categories, a four-category breakdown dropping the lower level to less than 1200 square feet, and impact fees would be staggered proportionately based on size. He concurred that we desperately need to reevaluate how we assess, in particular, traffic impact fees to our commercial, industrial, and retail development. He also wanted to see a concentrated effort from staff, the Consultants, and the members of the community, taking a real hard look at commercial/industrial impacts, because he believed there was double-dipping and he was not clear how that is assessed.

Commissioner Flescher appreciated everyone’s comments. He remarked that this examination of our impact fees has been done by schedule, and the timing could not be worse for

assessing and deciding upon said fees. He appreciated the work put into the study but felt the results are rather intimidating. He shared the concerns the numbers present, that while some are saying it would alleviate some of the burden on taxes, he felt they are so high in projection that they would adversely increase taxation.

Commissioner Wheeler thought Commissioner O'Bryan said everything that needed to be said, but addressed an earlier comment that older homes benefit from the new roads being built because of impact fees. He was concerned about inflation rate, and discussed inequity in taxes because of "Save our Homes." He believed impact fees are for our benefit and we should keep taxes and impact fees separate. He said he would also look at the levels of service differently to see what we could do.

Chairman Bowden reminded everyone that this was a Workshop and therefore no action would be taken. She remarked that the matter would be brought back before the Board in the near future, and she promised to take everything into consideration. She thanked everyone for attending.

6. ADJOURNMENT

There being no further business the Chairman declared the Workshop adjourned at 5:15 p.m.

ATTEST:

Jeffrey K. Barton, Clerk

Sandra L. Bowden, Chairman

Minutes Approved: _____
BCC/Impact Fee Workshop/AA/2008/minutes