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SPECIAL CALL MEETING

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BOARD OF COUNTY COMMISSIONERS

SPECIAL CALL MEETING

IMPACT FEES

The Board of County Commissioners of Indian River County, Florida, met in a Special Session at the County Commission Chambers, 1801 27th St., Vero Beach, Florida, on Friday, May 9, 2008, at 9:00 a.m. to discuss Impact Fees. Present were Chairman Sandra L. Bowden, Vice Chairman Wesley S. Davis, Commissioners Joseph E. Flescher, Peter D. O'Bryan, and Gary C. Wheeler. Also present were County Administrator Joseph A. Baird, Assistant County Attorney George Glenn, and Deputy Clerk Leona Adair Allen.

1. CALL TO ORDER

Chairman Bowden called the meeting to order at 9:00 a.m.

2. INVOCATION

Vice Chairman Davis delivered the Invocation.

3. PLEDGE OF ALLEGIANCE

Commissioner Flescher led the Pledge of Allegiance to the Flag.

4. DEPARTMENTAL MATTERS

4.A. COMMUNITY DEVELOPMENT

4.A.1. IMPACT FEES

Community Development Director Bob Keating reminded the Board that at their April 15, 2008, Board of County Commission Meeting, staff was directed to bring back the consultant from Duncan Associates to discuss the methodology used in the Impact Fee Study, and to respond to questions from the Board.

Staff's report from Item 12.A.I. of the April 15th Commission Meeting was provided to the Board (copy on file), for review of the options that were discussed in that meeting. Director Keating identified the five options as to how the Board could proceed, pointing out that they were not all exclusive, they could be mixed and matched. He specified that the options fall into different categories, and indicated that the Board could decide to: (1) Not accept the report, which would maintain the existing impact fee rates; (2) Accept the report and let staff make changes to the level of service and minor characteristics as recommended by the consultant; 3) Accept the report and phase in the increased fees over a period of time; (4) Accept the report, but discount the proposed fees to maintain rates at existing levels; or (5) Approve the updated report, eliminate the solid waste and library impact fees (since neither are big revenue producers), and increase the traffic impact fees (staff's recommendation). He advocated accepting the report and phasing in the fees as recommended in the report.

Budget Director Jason Brown provided the Board with the rationale for eliminating the two impact fees, and emphasized that traffic impact fees are a prioritization of need. He also mentioned that traffic impact fees do not have a significant operating cost attached to them as libraries do.

County Administrator Joe Baird summarized staff's position, and emphasized that due to the current economy, impact fees should not be increased. He recommended the Board accept the study, eliminate the solid waste and library impact fees, and not increase the impact fees at this time. He expressed that if the impact fees were increased right now, it would slow the community's economy even further.

The Commissioners voiced their concerns and the particulars of what they wanted to see in the report.

Clancy Mullen, Consultant from Duncan Associates, Administrator Baird, and Director Keating addressed the Board's questions regarding land and construction costs; fees and credits as they relate to impact fees; credits for principal repayment and capacity expanding improvements; and ad valorem bond issues pertaining to construction.

Mr. Mullen briefly highlighted portions of his Impact Fee Update using a Power Point presentation (copy on file). He divulged that the basic factor for increasing fees is that costs have gone up. He pointed out that no changes had been made to the formula, and that the same travel demand characteristics that had come out of the previous study were used for the calibrated trip lengths. He said they calibrated the travel demand for each land use, and reduced it by 24.1%, to account for the fact that there was not as much travel on the roadways as originally predicted by the generation rates. Mr. Mullen recapped the ratio of fees by County, as it pertained to non-residential versus residential fees; and informed the Board that Indian River County is in line with its neighboring Counties. He clarified the alternative revenue neutral fees, and the percent of maximum fees that the Board could adopt.

There was a brief discussion regarding donated land, the details of moving Osceola Magnet School, and increasing core capacity.

The Chairman opened the floor to the public.

Kirk Sorenson, Consultant to the Treasure Coast Builders Association, informed the Board that he had conducted a technical review of the Impact Fee Update that was presented by Duncan Associates. He suggested the Board either come to the conclusion that this is not the best time to do anything with impact fees, and/or take a closer look at the data, assumptions, methodology, and calculations within the update because he felt there was misrepresentation in the study. He emphasized that the objective of any community contemplating the adjustment of an impact fee schedule should be to ensure its fairness, proportionality and equity, prior to its adoption. Mr. Sorenson thereafter responded to questions from the Board.

Director Brown spoke about and answered questions as to how our County's policy is to use the local optional gas tax for capacity increasing projects, even though other Counties use it for roadway maintenance.

Administrator Baird explained the logic as to where the County stands regarding impact fees, and divulged that when a road is built, the gas tax, sales tax, and impact fees are all factored in so the entire burden does not fall on impact fees.

Commissioner Wheeler felt that one of the problems with impact fees is that sales tax is down, gas tax is down, and building costs are down. He felt that impact fees need to be raised due to residential development creating stress on the system. He supported impact fees on residential, but felt the problem was on the trip generation attributed to commercial development.

Vice Chairman Davis informed the Board that he did not have problems with the concept of impact fees, it was the methodology that he could not justify.

Discussion ensued on lane and road costs, historical data for prior road costs, cost per lane mile, replacing bridges, and averaging all the projects.

Commissioner O'Bryan informed the Board that the Budget Office had supplied him with a summary report showing past, current, and future road projects. He divulged that the report reflecting 49.8% of the total project costs were from impact fees.

Chuck Mechling, 1999 Pointe West Drive, did not believe that now would be the best time to increase impact fees. He felt that the County would best serve the community's future needs by not accepting the report. He suggested the Board step back and come up with realistic numbers.

In response to Administrator Baird's query, **Mr. Mullen** indicated that if the state roads were to be taken out of the equation, the fees would go down about 9%.

Director Keating clarified why the state road costs and travel on state roads should both be factored in the equation. He explained the reimbursement phases, and emphasized the lack of funds.

Administrator Baird reiterated Director Keating's comments about money being short and explained how road projects are being pushed back due to the reduced revenue stream.

The Chairman called a recess at 10:36 a.m. and reconvened the meeting at 10:55 a.m. with all members present.

Maria Fulchini, President of the Realtors Association of Indian River County, 1206 5th Place, Vero Beach, spoke on behalf of over 1,000 realtors, to convey their opposition to increasing impact fees (presentation on file).

John Williams, 1535 Smugglers Cove, urged the Board to heed staff's recommendation, consider removing the optional sales and gas taxes from the credit calculations, and to seek a more realistic calculation for impact fees.

Penny Chandler, 1408 Club Drive, representing herself, voiced concern over accepting a study that would probably be put on a shelf, and not used for 18 to 24 months. She encouraged the Board to not accept the report.

Peter Robinson, 315 Greytwig Road, expressed his feelings regarding housing assessments, roads, and bridges. He wanted the Board to come up with ideas as to how to spend impact fee dollars wisely. He suggested implementing a seven year program for impact fees, and denoting where the money would be spent, so staff would know in advance how much it would cost to build future roads and buildings.

Director Brown acknowledged that the County has a five year plan for transportation improvements, and noted the deficiency in dollars. He detailed the projects that would be using the existing revenue sources over the next two years.

Don Wright, 720 N. Fischer Circle, Sebastian, a participant on the Impact Fee Study, wanted the Board to ensure that impact fees are used for capacity on roads, not just any capacity. He did not want the Board to increase impact fees, nor accept the study; but he did want something verifiable put into place to show why impact fees are increased, not based on the concept that new development would pay for itself.

Commissioner Wheeler clarified the County's spending process regarding impact fees and ad valorem tax dollars.

Chip Landers, 1636 51st Court, told about impact fees generated by the School District and informed the Board that they did not want an increase in impact fees. He encouraged the Board to not raise the impact fees at this time.

Administrator Baird encouraged Mr. Landers to go back to the School Board and inform its members that a vote, not a consensus, is required by the Board regarding their preference to impact fees.

Joseph Paladin, 6450 Tropical Way, Vero Beach, explained that the impact fees on new houses currently being sold were paid when the permits were pulled, or when concurrency was vested. He reiterated that impact fees are earmarked for certain things. He felt that the County's goal should be reducing commercial and industrial impact fees so the County can have an incentive program that would reflect a job base.

Director Keating disclosed that staff recommends the study be adopted, or if requested, they could seek alternative formulas.

Dave Ederer, 1351 Seahawk Lane, spoke as a resident and local builder, not as a Board member from the Treasure Coast Builders Association. He felt that from a business standpoint, this was not the time to increase the impact fees. He urged the Board to look at the Comprehensive Plan, review calculations, and develop a formula with a vision.

Jeff Thompson, 2307 Seville Avenue, opposed raising impact fees, and provided a petition with over 430 signatures from Indian River County residents who also opposed raising the impact fees (copy on file).

Nancy Offutt, 686 Date Palm Road, Vero Beach, representing Treasure Coast Builders Association, emphasized that impact fees are a reality, they must be fair, consistent,

evenly applied, and have to be based on true and current information. She asked the Board to not adopt the Duncan report because of the inconsistencies, keep the impact fees where they are, and use the next few months to come up with a better product.

Vice Chairman Davis provided an overview of what the Board would need to decide: (1) whether to eliminate the library and solid waste impact fees; (2) if fees should be increased now or later; and (3) whether the report should be adopted.

Administrator Baird reported that impact fees are very complicated and have a lot of variables. He suggested the Board accept the report, not implement it for 18 months (due to economic conditions), eliminate the library and solid waste impact fees, and obtain clarification (through a vote) from the School Board regarding impact fees.

Chairman Bowden emphasized the importance of taking the time to review the study, and getting it right.

MOTION WAS MADE by Commissioner Wheeler, to accept Option 2, to approve the study as presented, increase the fees as recommended by the consultant, with changes to remove the library and solid waste impact fees, reduce the commercial impact fee by an additional 15%, and obtain a vote from the School Board. There was no SECOND.
MOTION DIED.

Discussion ensued regarding the County acquiring right-of-way property; a 15% impact fee reduction for commercial; accepting the study; and hiring a traffic consultant to review the independent variables.

Commissioner Flescher acknowledged that he had concerns with the previous studies, as well as the explanation of the methodology. He did not support the report due to the current economic condition, and the capacity that was used as a baseline.

Commissioner O'Bryan supported the commercial industrial traffic impacts, and taking the necessary steps to make sure it would be addressed correctly. He agreed with eliminating solid waste and library fees, and transferring those dollars to traffic, but disagreed with waiting 18 to 24 months to move forward. He supported the report as presented, the changes discussed, keeping the levels at the current rate, and increasing them by about 15% every six months. He felt this would give the builders a vision, while protecting the County infrastructure from rising inflation.

Commissioner Wheeler said he wanted to make three separate motions.

MOTION WAS MADE by Commissioner Wheeler,
SECONDED by Vice Chairman Davis, to eliminate solid
waste and libraries from the impact fees.

Under discussion, Administrator Baird acknowledged that staff recommended eliminating solid waste and libraries from the impact fees.

The Chairman CALLED THE QUESTION and the Motion
passed unanimously. The Board unanimously approved to
eliminate solid waste and libraries from the impact fees.

MOTION WAS MADE by Commissioner Wheeler to find a
way to reduce the impact fees on business commercial
property. There was no SECOND. MOTION DIED.

The Board indulged in a discussion pertaining to reviewing commercial variables, hiring a consultant, the most appropriate method of voting on the various issues at hand, and how each Commissioner felt about accepting the report.

Assistant County Attorney George Glenn announced that if the Board rejects the report they could not implement the actions of the report. He specified that removing solid waste and libraries from the impact fees would be independent of the study.

MOTION WAS MADE by Commissioner Wheeler to accept the study and implement the fees. There was no SECOND. MOTION DIED.

Commissioner Wheeler told the reasons why he wanted to accept the study and implement the fees, and why he was against waiting 18 months to make changes.

MOTION WAS MADE by Vice Chairman Davis, SECONDED by Commissioner Flescher, to not accept the Duncan report.

Under discussion, Chairman Bowden felt that now would be the best time to slow down and obtain “concrete” numbers. She also voiced concern over the time, money, and effort that went into the report. Chairman Bowden wanted to address this matter immediately with the School Board.

Discussion ensued regarding the number of single family building permit applications approved over the past two months, and impact fee dollars spent.

The Chairman CALLED THE QUESTION and the Motion passed by a 3-2 vote (Commissioners Wheeler and O'Bryan opposed). The Board approved not to accept the Duncan Report.

Commissioner O'Bryan wanted to know where staff would go from here since the Board rejected the report.

Vice Chairman Davis explained his Motion, saying that the Board would now have the opportunity to discuss the issues with those who thought commercial and industrial fees were too high, and that it could now be modified before being accepted.

Discussion ensued regarding the study, the data, and how to come up with reasonable impact fees on commercial and industrial development.

Director Brown voiced concern because the Florida Statutes require impact fee studies to be based on the most recent and localized data, and he felt they were stretching the bounds of the most recent data. He said if the data is 2 ½ years old then once we adopt it, it may not be defensible, indicating that staff would have to start over and rebuild all of the land values, construction costs, and student capacity.

Mr. Mullen said that things have changed, and acknowledged that he did not know where to go from here.

The Commissioners and staff indulged in a lengthy discussion regarding accepting the study, making later adjustments, and bringing it back with an Ordinance.

Vice Chairman Davis believed the big issues needed to be addressed before accepting the study.

Director Keating clarified the direction of the Board, confirmed that staff would deal with the School District, and develop the Scope of Services (should the cost fall under Administrator Baird's authority) so Administrator Baird could approve the study, and staff could move forward. He felt that in order to differentiate commercial impact fees in terms of how much demand is being created, that a traffic consultant would need to conduct a study. Thereafter, he acknowledged that this would take a number of months before it could be brought back to the Board.

There was a brief discussion pertaining to why the report was not accepted, the item coming back to the Board under the Consent Agenda, and whether it would fall under the Competitive Negotiation Act.

Commissioner Wheeler and Vice Chairman Davis requested that when this comes back to the Board that it be restricted to addressing specific points and issues.

Administrator Baird said that since the study was not accepted, the School Board could only decide if they want to move ahead with their current impact fees.

ON MOTION by Commissioner Wheeler, SECONDED by Vice Chairman Davis, the Board unanimously directed staff to obtain clarification from the School Board by vote.

At the request of **Joseph Paladin**, Commissioner Wheeler explained that he wanted to see commercial and industrial impact fees reduced by 15% from the point where they are currently.

ALL BACKUP DOCUMENTATION, RESOLUTIONS, AND ORDINANCES ARE ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD AND ARE HEREBY MADE A PART OF THESE MINUTES.

5. ADJOURNMENT

There being no further business, the meeting adjourned at 12:59 p.m.

ATTEST:

Jeffrey K. Barton, Clerk

Sandra L. Bowden, Chairman

Minutes Approved: _____

BCC Special Call/LAA/2008