

INDEX TO JOINT WORKSHOP WITH THE
PLANNING AND ZONING COMMISSIONERS AND THE
BOARD OF COUNTY COMMISSIONERS

MAY 23, 2006

TRAFFIC IMPACT AND ROADWAY CONCURRENCY
STUDY DRAFT REPORT

1.	CALL TO ORDER -----	1
2.	PLEDGE OF ALLEGIANCE-----	2
3.	INVOCATION -----	2
4.	PRESENTATION OF TRAFFIC IMPACT AND ROADWAY CONCURRENCY STUDY – DRAFT REPORT BY: JOHN KIM, P.E., MCMAHON ASSOCIATES, INC.-----	2
5.	DISCUSSION OF DRAFT REPORT-----	6
6.	QUESTIONS AND COMMENTS FROM BOARD OF COUNTY COMMISSIONERS AND PLANNING AND ZONING COMMISSIONERS -	8
7.	PUBLIC COMMENTS -----	9
8.	BOARD OF COUNTY COMMISSIONERS DIRECTION TO STAFF-----	15

May 23, 2006

**JOINT WORKSHOP OF THE BOARD OF COUNTY
COMMISSIONERS AND PLANNING AND ZONING
COMMISSIONERS**

**PRESENTATION OF TRAFFIC IMPACT AND
ROADWAY CONCURRENCY STUDY – DRAFT REPORT**

The Board of County Commissioners of Indian River County, Florida, met in Joint Session with the Planning and Zoning Commissioners in the County Commission Chambers, 1840 25th Street, Vero Beach, Florida, on Tuesday, May 23, 2006, at 2:00 p.m. Present were Chairman Arthur R. Neuberger, Vice Chairman Gary C. Wheeler, and Commissioners Sandra L. Bowden, Wesley Davis and Thomas S. Lowther. Also present were County Administrator Joseph Baird, County Attorney William G. Collins II, Executive Aide to the Board Kimberly Massung, and Deputy Clerk Maria I. Suesz.

Also present from the Planning and Zoning Commission were Donna A. Keys, Chairman, Bob Bruce, Vice Chairman, George F. Hamner, Jr., Vice Chairman, Scott Chisholm, George Christopher, George W. Gross, P.E., and Ann Reuter.

1. CALL TO ORDER

Chairman Arthur R. Neuberger called the meeting to order at 2:00 p.m.

2. PLEDGE OF ALLEGIANCE

Vice Chairman Gary C. Wheeler led the Pledge of Allegiance to the Flag.

3. INVOCATION

Planning Director Stan Boling delivered the Invocation.

4. PRESENTATION OF TRAFFIC IMPACT AND ROADWAY CONCURRENCY STUDY – DRAFT REPORT BY: JOHN KIM, P.E., MCMAHON ASSOCIATES, INC.

John P. Kim, P.E., and **Joseph McMahon**, CEO of McMahon and Associates, Inc. presented the Traffic Impact and Roadway Concurrency Study using a PowerPoint presentation (copy on file). They were hired to conduct a study of Indian River County (IRC) Code in comparison with five other south Florida counties (Collier, Martin, Miami-Dade, Palm Beach, and Sarasota) to recommend changes to our Code. The stipulated areas of concern were from a land development perspective in terms of IRC Concurrency Management System, required roadway improvements, and elements of the traffic impact study.

The study revealed that IRC requires a standardized report, while other counties do not. The County's radius of influence in terms of what roadways and intersections need to be analyzed are relatively conservative. In terms of the County's concurrency process, unlike many other counties, IRC does not allow a de minimis. There are no urban infill areas in the County and no traffic concurrency exceptions. The timing of reservation of impact fees recently has changed to be required at the time of the building application, and requiring all impact fee payments at that time. IRC's concurrency database system is probably the most complete of all the counties that Mr. Kim reviewed, and IRC is the only County that has adopted the new Proportionate Share Ordinance. The data collection was found to be similar to many other counties. Most counties enter the information and make it active at one point

in the year. IRC adjusts for peak season, and updates data collection monthly. In Mr. Kim's opinion, IRC's data is much more current than other counties. For roadway improvements, IRC's mitigation is similar to other counties, which includes roadway widening, retiming or rephasing of signalized major intersections, and intersection improvements. IRC relies on the Florida Department of Transportation (FDOT) access management standards. Our driving range standards are specific and they have an enumerated number of different uses, which is in contrast to what other counties do. IRC has a set minimum for gated residential community stacking lanes.

Mr. Kim explained the radius of influence as to what roads need to be analyzed. He provided a graph (copy on file) using an example of five different levels of criteria to establish a radius of influence. IRC now is the most conservative of the counties studied by assuring a five-mile radius is reviewed to do their analysis.

Mr. McMahon provided an example to further explain how IRC requirements of looking at a five-mile radius would affect a particular development.

Mr. Kim's recommendations included that IRC should require an analysis of all roadways where a project's net new peak hour directional impact is 2% of its level of service (LOS). IRC should analyze signalized intersections at both ends of a significantly impacted roadway that is within 10 percent of reaching its adopted LOS.

Mr. McMahon said a 2% LOS makes it less restrictive, rather than liberal conservative. It gives more latitude, but makes sure you catch those areas that will need improvement.

Traffic Engineer Chris Mora commented that the consultants are proposing much less than what we do now.

Mr. Kim continued with his recommendations stating IRC should require, as a minimum, AM and PM peak-hour, peak-season directional volumes. IRC should require a different peak hour for large projects, whose impacts may change the peak hour of the adjacent streets.

Commissioner Davis questioned if there is another alternative to staff doing two programs.

Mr. **McMahon** pointed out that the County wants to try to ensure that when they add up existing traffic and development traffic they catch the worst situation.

Traffic Engineer Mora related that staff was thinking of having the consultants look at AM peak-hour, not on the basis of concurrency, but on the basis of traffic operations.

For large projects, such as a Development of Regional Impact (DRI), **Mr. Kim** recommended allowing the use of the ITE matrix in the trip generation handbook. Discussion ensued regarding developing internalization for large, mixed-use projects.

Mr. Kim recommended permitting the use of a manual method for estimation of project traffic distribution, giving staff flexibility. He said IRC should establish a de minimis criteria that includes those projects whose peak-hour, peak-season directional vehicle trips assigned to a roadway are less than one percent of a roadway's adopted LOS. This recommendation was followed by a lengthy discussion, and Director Keating explained the different types of de minimis and provided examples.

Mr. Kim recommended concurrency to begin once they completed the traffic impact study, and subsequently when the development order is approved; IRC should require the impact fees be paid within 6 months from the date of the development order approval; and IRC should include subdivisions approved prior to 1990 in the concurrency database. A lengthy discussion followed this recommendation.

Administrator Joseph Baird thought subdivisions approved prior to 1990 should not be counted in concurrency, and he suggested that staff account for an absorption factor.

Bob Bruce, Vice Chairman of P&Z, disagreed. He felt the County needs to anticipate traffic and have a seat for every car.

Mr. Kim stated his intent was to try and get the Board to account for everything.

George Christopher wanted the issue addressed that P&Z has had a lot of debate. It is regarding how the traffic analysis handles previously approved projects that have not yet vested when a new development does a traffic study to determine their development's impact on the road system.

Mr. Kim responded that projects in the approval process should be identified as an intermediate in the Concurrency Management Database in order to become active in the system, and become final when they apply for their impact fees.

Discussion ensued regarding various development projects throughout the County and Mr. Bruce felt they needed to be cognizant of what is coming online.

George Christopher asked if the growth rate is to be used, or if the approved numbers should be used determining the impact the new project is going to have on the highway system.

Discussion ensued and Director Keating emphasized that the developer cannot pull a building permit until they pay the impact fees for any amount of land use that is approved for development. He continued reviewing the rules back to 1991, when there was an economic downturn. They allowed the developers to take the risk, get a preliminary plat or subdivision approved, but were not required to be vested. Now staff is working on an LDR amendment to Chapter 910, to require vesting earlier in the process.

Commissioner Davis was not sure he agreed with that process. Ideally, he would like to get into the system that nobody vests until they absolutely have to, and that means the transportation issue in the County would be solved. He also thought it was not wise to have all the vacant lots on the system.

Mr. Kim continued recommending reconciliation of COs with traffic count data, and collecting traffic counts once per year during the peak season, which is generally consistent with other counties. IRC should permit traffic counts be a maximum of one-year old from the time that the methodology for a traffic study is approved, enter traffic counts into the database on a yearly basis, and allow traffic studies to utilize whatever traffic counts were considered current at the time that the methodology was approved. He indicated that turn lanes for driveways could be required even in the event that the minimum peak hours turning movement volumes may not be achieved. IRC should amend the Code to indicate that the need for additional vehicle stacking for residential gated communities is required and will be evaluated on a case-by-case basis. Also, IRC should amend the code to indicate that the required stacking for individual gated communities will be measured to the first point of service and not the location of the gate arm.

The Chairman called for a recess at 3:23 p.m., and he reconvened the meeting at 3:31 p.m., with all members present.

5. DISCUSSION OF DRAFT REPORT

Mr. Kim, in response to Mr. Christopher's questions, related the intent of his recommendation that the concurrency database should include a project when (a) the traffic study is approved and deemed correct, and (b) when a development order is issued. If they do not pay impact fees within 6 months, then they should lose all their vesting and go back to

the beginning of the process. He proposed that for concurrency management to be issued it should be accounted for in the database. When a development order is issued, IRC may want to put a date certain, allow for all development approval, and all impact approvals, even if the developer has not paid the impact fees.

Commissioner Wheeler thought that would be a way to slow down growth.

Mr. Kim said he would want to make sure that the Concurrency Management System would let him know when it would fail.

In order to plan to build roads and stay ahead of growth, Commissioner Wheeler thought the Board needed to massage those numbers between the impact fees and those projects that have been approved to build the roads without moving them around concurrency and shut developers down.

Administrator Baird thought they were forgetting the Capital Improvement Plan and reminded everyone it takes money to build roads.

Mr. Christopher suggested having a very definitive line to allow potential building, allow for grandfathering, so they do not close the door overnight, and to allow enough time for new numbers to take affect.

Commissioner Davis stated he did not know what to plan for.

Mr. Christopher thought they should get the facts and then decide how to implement the recommendations.

Chairman Neuberger asked how to obtain the numbers.

Administrator Baird stated they have the facts, but he felt loading everything on the database will count trips not vested and that can be misleading information as to the funds on hand. He recommended implementing an absorption process, so that the money would be available in order for the County to do roads in a timely fashion.

Mr. Christopher disagreed. He said the only numbers the County has are those that have been vested. He reiterated that the P&Z Commission issue is about planning and not concurrency.

Mr. Kim felt it was important to point out that concurrency begins in the other five counties at the time of the land development permit or at the time the development order is issued. He felt the Board was looking at this issue from a different perspective than he did as a consultant.

Director Keating said that suggestion was fine as long as impact fees are paid. He said one cannot expect roadways to be built and the capacity to be available if they are loading all the trips on the system, but they are not getting the impact fees at that time.

6. QUESTIONS AND COMMENTS FROM BOARD OF COUNTY COMMISSIONERS AND PLANNING AND ZONING COMMISSIONERS

Commissioner Davis wanted to know when other Counties require their impact fees be paid.

Mr. Kim stated Collier County requires 50% of the transportation impact fees be paid at the time of the development order approval. Martin County has roadway and school impact fees paid within 60 days of site approval. The other three counties do not require the fees be paid until the approval of building permits. They also account for the concurrency when the DO is issued, they do not wait for the building permit.

7. PUBLIC COMMENTS

Bruce Barkett, 156 Beachland Blvd., agreed with Administrator Baird to allow the impact fees to be paid at the time of approving the land development permit (LDP). If all the money is not paid up front **Mr. Barkett** felt you can still plan. If you make them pay their impact fees, or at least bond them out at a time-certain, you know their money is on the line, and they are going to build their project.

Bob Swift, 6450 Glendale, related that when he plans a development project he plans for the next three to five years. He suggested the County should use a similar system. With the background traffic data, coupled with the surety bond or letter of credit, the County would know when they come on-line and when they would get paid for it.

Discussion ensued regarding Mr. Swift's suggestion and Administrator Baird indicated it could be done if the developers would do their projects in phases.

Chairman **Donna Keys**, liked the idea of paying impact fees in phases.

Brian Stewart, Esq., Gunster, Yoakley & Stewart PA, suggested tying it into the Capital Improvement Plan.

Discussion ensued regarding the County having the assurance, either by a letter of credit or bond, that they would get the required impact fees for a development, if they allowed them to be paid in phases.

Tim Zorc, a local homebuilder, wanted to see comparison to areas that have had success rates. He called the five counties we were compared to as “traffic concurrency failures.” Paying impact fees earlier did not solve any of the listed Counties’ problems.

Commissioner Wheeler interpreted Mr. Zorc’s comment to mean studying a county smaller than IRC.

Mr. Kim felt there was no correlation to paying impact fees earlier than by counting the trips before the impact fees are paid.

Adrienne Cuffe, 695 43rd Avenue, questioned why the Board was trying to be fair to everyone.

Commissioner Davis explained to her that the purpose of hiring the Consultant was to learn how to solve the problem of not enough concurrency.

Mr. McMahon advised if IRC approves the development order for those projects being built in phases, they have to look at the trips for each phase, find out when they will affect the system, and then determine whether it is going to work to avoid over-building when capacity is not really there. They need to look at all project trips proactively.

Director Keating was adamant that the “over building” scenario laid out by Mr. Kim could not happen. If they had four shopping centers in each quadrant of an intersection and all applicants had site plan approval, then each one would need to pay his impact fees

and meet a concurrency test before getting permits. They all could not build, if the roads could not handle all four projects. In such a case, permits would be denied.

Mr. McMahan replied that he disagreed.

Chuck Mechling, 1990 West Pointe Drive, brought forth a concept and did a scenario of numbers saying as a County they need to take care of all situations and look at all different sides. This would give a quicker cash flow upfront, allowing roads to be built and creating a planning stage that could be followed throughout the county.

George Hamner Jr., P&Z Commission member, liked the idea of “pay as you go”, but he did not understand what that does for planning. He wanted to know when they would see the numbers.

Attorney Collins thought they need to know what could be required of the road system, whether it is vested or not.

Administrator Baird stated that as long as a developer pays his impact fees, that is his risk, and the County will not issue the land development permit unless there is capacity on the roads.

Commissioner Davis said he sees a problem because after the third person, the system breaks, and now they are talking about a policy to implement it.

Chairman Neuberger inquired from staff whether the current system was a good working system.

Director Keating replied it was, but not with the Pending Ordinance. Staff is looking at revisiting concurrency regulations regarding the first time an applicant is allowed to vest and the last time he has to vest. The first point is when the developer has a complete land development application in. The applicant then is going to make a multi-million dollar horizontal construction investment, and he should have the ability to mitigate the risk that concurrency won't be available. As to the last point where he has to vest, they are looking at final plat approval, because at that time the lots will be created. If those lots are vested forever they are not going to have the possibility of a subsequent buyer getting those lots and not having concurrency. These timeframes allow the developer to mitigate risk at the Land Development Permit complete application time, and eliminate the risk for subsequent buyers by having final vesting at final plat.

Discussion ensued and P&Z members posed several questions to Director Keating regarding the allocation of concurrency when he had more than one applicant at the same time. Director Keating responded that he used a first come first serve basis. I

Joseph Paladin, President of the Growth Awareness Committee (a private sector group) said his theory was the first to vest to be the earliest dated LDP applicant, There would be no guess work and it would be fair.

Mr. Paladin continued at length regarding the feasibility of Mr. Swift's proposal to vest in phases. He stated the pending ordinance was a reaction to problems that were happening at that time. The Board feared that the local developers would be squeezed out by larger developers who could afford to write a check for the impact fees. He agreed that the best time to vest was at LDP. He felt there was confusion and commented that Mr. Christopher distinguished two problems, counting and concurrency. **Mr. Paladin** advised the Board to get all the facts, and find out what steps other counties took to get to their end result to decide what will work for IRC. He was not against writing a new ordinance that

would let people vest; and he was not against making vesting mandatory at final plat. He was against everyone trying to make a decision when everyone does not have the facts, and when only a few people know all the facts.

Commissioner Lowther wanted the consultant's opinion. He still felt IRC was a model county, and **Mr. Kim** replied positively, that he thought IRC had their act together.

Commissioner Lowther summed up the discussion thinking they did not get enough input from the P&Z members.

Chairman Neuberger responded that questions regarding the traffic report initiated this dialogue, but he did not know why.

Traffic Engineer Chris Mora wanted the consultant's opinion regarding their ability to vary, change or alter the traffic capacity by using an individual arterial analysis.

Mr. Kim responded there was nothing wrong with accepting different input values, as long as there is field data to substantiate them.

Mr. Christopher asked the consultant if the Board wanted a planning ledger; how long should it take to get those facts into the database to see what the demands are of the approved projects; and whether that was something they could do.

Director Keating added that he has estimated 1000 to 1500 staff hours. He said it would be a logistical problem with their computer system, and said they are dynamic trips, not static.

Mr. Christopher recalled a year and a half ago staff said it would take 1,000 hours and it would be irrelevant. He asked his question again of the consultant and wanted to know if that was something they could do.

Mr. McMahon responded that 1,000 hours might be accurate, and that they do that kind of work.

Mr. Hamner said P&Z was looking for a policy from the Board, whether they deny a project because there is current concurrency, yet on the planning side that link will fail.

Chairman Neuberger advised Mr. Hamner that the P&Z Commission should base their decision on what the engineer says about the traffic, meaning concurrency.

Donna Keys stated this is both a concurrency issue and a planning issue. The figures are only being used for planning. If there is concurrency, that project gets approved. If there is no concurrency it does not get approved, but the figures are a planning tool.

Mr. Bruce commented that everyone seemed to forget that they can build houses faster than they can build roads.

Chairman Neuberger thought they were “caught behind the curve”. At one time or another if development slows down a little and the traffic speeds up, somewhere in the next ten years the bubble might be over.

Doug Cuffe, 695 43rd Avenue, wanted to know when development would end on 43rd Avenue, 58th Avenue and SR-60.

The Board agreed that there is no end to growth.

8. BOARD OF COUNTY COMMISSIONERS DIRECTION TO STAFF

Traffic Engineer Mora asked the Board for direction as to who should put together a summary on today's meeting.

Chairman Neuberger definitely wanted the consultants to use what they heard today and come back with a report.

Commissioner Lowther felt the consultants understood that the pending ordinance doctrine is a big issue.

Commissioner Davis wanted to find a policy to lift the pending ordinance and let that be part of the package.

Commissioner Bowden said P&Z is always on the front line and they do need some concrete information that they can determine is valid.

Mr. McMahon said they would refine their report, take the input from staff and get back to the Board.

There being no further business, and the meeting workshop adjourned at 5:06 pm.

ALL BACKUP DOCUMENTATION IS ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD AND IS HEREBY MADE A PART OF THESE MINUTES

ATTEST:

Jeffrey K. Barton, Clerk

Arthur R. Neuberger, Chairman

Minutes Approved: _____

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