LAKE COUNTY IMPACT FEE COMMITTEE

May 14, 2009

The Lake County Impact Fee Committee met on Thursday, May 14, 2009 in Room 233 of the Lake County Administration Building, 315 W. Main Street in Tavares, Florida. Ordinance 1996-31, effective April 19, 1996, created this Committee to review impact fees adopted by the Board of County Commissioners, evaluate the expenditure of funds collected via impact fees, and make recommendations to the Board of County Commissioners.

Ordinance 2004-26, enacted April 6, 2004, effective April 13, 2004, changed the name of the Impact Fee Evaluation and Review Committee to the Lake County Impact Fee Committee and changed membership from eleven members to ten members. A current commissioner of the Lake County Board of County Commissioners shall serve as liaison in a nonvoting position and shall not be considered a member.

County Commission Liaison
Commissioner Jennifer Hill

Members Present:
Bill Calhoun, Citizen at Large – Arrived at 9:35 AM
Richard Giacobe, Citizen at Large
Peter Glenn, Banking and Finance
Nancy Hurlbert, Citizen at Large, Chairman
Jean Kaminski, Home Builders Association of Lake County
Karen LeHeup-Smith, Lake County League of Cities
Carol Macleod, Lake County Schools
Ray San Fratello, Chamber of Commerce

Members Not Present:
James Argento, Citizen at Large
Bill Benham, Agricultural Industry Representative

Staff Present:
Angi Thompson, Development Processing Manager
Ed O'Malley, Impact Fee Specialist
Debbie Parker, Development Processing
Amye King, AICP, Growth Management Director
Sandy Minkoff, County Attorney

Chairman Hurlbert called the meeting to order at 9:30 A.M and had all members and guests introduce themselves. She then asked if all members had had an opportunity to review today's agenda and asked if there were any additions or changes. None being offered the Chairman confirmed that the meeting had been properly advertised in the newspaper and noted that the minutes from the April 16, 2009 meeting were available for approval by the Committee. Jean Kaminski pointed out that the minutes referred to deferrals and payment plans being discussed with respect to commercial impact fees while she was thinking that the discussion was on residential as well as commercial impact fees. The tape from the last meeting will be reviewed to clarify same.

Mr. Calhoun arrived at the meeting at 9:35 AM.

MOTION made by Jean Kaminski to approve the minutes, with a note to check the audio tape recording, SECONDED by Bill Calhoun, to approve the April 16, 2009 Lake County Impact Fee Committee minutes.

FOR: **Calhoun, Giacobe, Glenn, Hurlbert, Kaminski, LeHeup Smith, Macleod, San Fratello**

AGAINST: **None**

NOT PRESENT: **Argento, Benham**

MOTION CARRIED: **8 – 0**

Old Business

The Chairman confirmed there were legislative updates to review and turned the meeting over to Mr. Minkoff.

Mr. Minkoff provided information relative to new legislation awaiting the Governor's signature. The revised statute included in this legislation will state that in any action challenging an impact fee it will be the government that has the burden of demonstrating by a preponderance of the evidence that the fee meets the legal requirements of the statute. It goes on to state the court may not use a deferential standard in deciding this issue. A major consideration for Lake County is that, as written, individuals could challenge the timeliness of data used in the studies which support the fee schedule used in the county. It leaves open for a judge to rule on whether data used in a study was outdated or whether it was the most current data available. The subjective nature of the wording puts the county in a position of having to satisfy a subjective argument. In any case the data used in all of our studies is two to six years old at a minimum. Mr. Minkoff suggested that cautious advice would be to update all of our impact fee studies to reflect the most recent data. An update of the school study would require the approval of the school board. Plans are being made to meet with the school board to discuss this issue. Mr. Minkoff indicated he would recommend that the Board update all impact fee studies in as short a time frame as possible.

Economic Incentives Discussion

Chairman Hurlbert asked Angi Thompson to open the discussion. Ms. Thompson outlined information included in the agenda for today's meeting. The data includes a survey put together by the County Attorney's Office showing which counties have adjusted their impact fee program and what specific action they taken, if any. The second piece of data supplied is a copy of the residential impact fee schedule and a copy of a portion of the commercial impact fee schedule with hypothetical impact fee calculations for some sample businesses shown.

Ms. Thompson then went on to outline the five (5) options the committee for changes in the collection of impact fees that had been discussed at the last meeting.

Option 1: Offer a payment plan to customers which could be in the form of a special assessment spread over a number of years. If it were a special assessment, the county could borrow against the assessment and therefore have full access to the funds prior to them actually being collected.

Option 2: Offer a change in the time of collection of impact fees from the time of permitting to the issuance of a Certificate of Occupancy (CO). This would require a change in the ordinance.

Option 3: Temporarily suspend the assessment and collection of impact fees. Projects which included developer's agreements and credits would have to be reviewed to allow these credits to be transferred to another project.

Option 4: Temporarily suspend the collection but not the assessment of impact fees for a period, perhaps one year. At that point the fees which had been assessed but not collected would be converted to a special assessment and a payment plan would be developed as in Option #1.

Option 5: Do an across the board reduction in fees for a specified period.

Chairman Hurlbert then called on the members to offer any feedback on these options they may have received over the last month from their constituent groups and other contacts within the community. Each of the committee members offered opinions and information gathered from constituents. At this point in the meeting Mr. San Fratello suggested that the committee review each option presented to establish if there was a consensus which the committee could arrive at.

Mr. Minkoff took this opportunity to inform the committee about a deferral agreement the Board had entered into recently. This was an unusual situation where a payment plan was established. The important point that Mr. Minkoff wanted the committee to be aware of is that all parties to the property including the mortgage holder had to agree on the terms of the payment plan and sign off that the fees were owed and would be paid off in accordance with the agreed upon terms. The document was recorded.

Ms. Hurlbert then asked for a vote by the members on whether they could or could not support each of the options on the table. Discussion amongst impact fee committee members followed centered on the repercussion of each option. Voice votes on each option were then taken to see if there was a consensus which could be arrived at and agreed upon by a majority of committee members.

Of the five options discussed the committee was in favor Option 1 and against each of the other four options on the table. At this point the chairman invited citizens to make their statements prior to the committee taking a final vote.

Jeff Cagan representing Cagans Crossing in South Lake stated in his opinion that impact fees should be suspended for a period of years to help stimulate activity. He stated that arguments showing that suspension of impact fees do not show an increase in activity are false because the development industry takes one to two years or more to plan, design, and receive site plan approvals prior to any permitting. These developers need to know that a suspension of fees isn't just short term. They need time to react to any suspension and that is why you don't see immediate results in locals where suspensions have been implemented.

David Morse, representing the contractor who will be building the Loch Leven Landing shopping center in Mount Dora, voiced his agreement with Mr. Cagan that the process to plan and get a project approved are lengthy and to see activity spurred by a deferral or suspension of impact fees would require that the deferral/suspension be of enough length that a developer could start the project, obtain approvals and go to permitting while the deferral/suspension was still in place. Mr. Morse went on to explain that just a deferral to CO can have a significant effect on a project because it allows a contractor/developer to avoid a bank loan with interest for up to a year. The contractors/developer currently has to pay the impact fees at permitting and is not reimbursed until CO by the owner or tenants. Mr. Morse stated that this issue alone could mean whether the project is started now or postponed indefinitely.

Jim Miller, a citizen of Lake County, offered that the opportunity to pay impact fees on a payment stretched over a period of years would be well received by the business community. These fees today can make or break a business. He stated that a payment plan that became part of the tax assessment on the property would ensure it would be paid and would allow it to be bondable.

Representatives from Atlantic Housing were prepared to provide input into this discussion, however, the discussion was tabled because the issue was not related to impact fees but was centered on available fees within the county to waive impact fees.

Joe Bandur, a chiropractor and owner of a 3500 square foot building in south Lake County, offered that impact fees represented twelve (12) to fifteen (15) percent of the cost of the project. At these costs it becomes prohibitive to go ahead with the project. That means that the added office jobs the project would bring won't happen and the construction jobs to redo the building won't be there. This also has an impact on the county.

Chairman Hurlbert asked if committee members wanted to consider adding options based on the input from

citizens received today. Individual committee members indicated sympathy with the arguments of the speakers. Conversation centered then on whether to include a recommendation to include Option #2 as well as Option # 1. General discussion brought the committee back to Option #1 only.

Chairman Hurlbert then asked for a motion to recommend Option #1 to the Board of County Commissioners.

MOTION made by Bill Calhoun, SECONDED by Ray San Fratello.

FOR: **Calhoun, Giacobe, Glenn, Hurlbert, LeHeup Smith, Macleod, San Fratello**

AGAINST: **None**

NOT PRESENT: **Argento, Benham, Kaminski**

MOTION CARRIED: **7 – 0**

Ms. Hurlbert asked if there were any other business or issues for discussion. None being identified Chairman Hurlbert adjourned the meeting at 11:17 A.M.

Respectfully submitted,

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Ed O'Malley	Nancy Hurlbert
Impact Fee Specialist	Chairman