

JUNE 25, 1986

The Board of County Commissioners, Manatee County, Florida, met in SPECIAL SESSION in the Courthouse, Bradenton, Florida, Wednesday, June 25, 1986, at 6:30 p.m. for the purpose of considering proposed Ordinance 86-09 on establishment of impact fees.

Present were Commissioners:

Westwood H. Fletcher, Jr., Chairman
Edward W. Chance, Vice-Chairman
Kent G. Chetlain
Patricia M. Glass
Maxine M. Hooper

Also present were:

Ronald H. Rabun, County Administrator
H. Hamilton Rice, Jr., County Attorney
Richard H. Ashley, Chief Deputy Clerk, representing
R. B. Shore, Clerk of Circuit Court

Representatives of the various news media were present.

Invocation by Mr. Chance.

The meeting was called to order by Chairman Fletcher.

Witnesses/staff presenting testimony were duly sworn, unless exception noted.

IMPACT FEES

Public hearing, continued June 11, 1986, (Second Notice in The Bradenton Herald 6/19/86) was opened to consider

ORDINANCE 86-09 AN AMENDMENT TO ORDINANCE 81-4,
THE MANATEE COUNTY COMPREHENSIVE ZONING AND LAND
DEVELOPMENT CODE TO PROVIDE FOR ESTABLISHMENT OF
IMPACT FEES FOR ROADS, PARKS, SOLID WASTE AND
EMERGENCY MEDICAL SERVICES FOR ALL INCORPORATED
AND UNINCORPORATED PARTS OF MANATEE COUNTY.

The County Administrator, noting that this was the last scheduled public hearing to consider the Impact Fee Ordinance, advised that staff has made the revisions as approved in previous public hearing.

GRANDFATHERING

Fred Goodrow, Planning Director, commented on concerns relative to "grandfathering" applications currently in process. The requirement that the applicant have a valid building permit prior to adoption of the ordinance (target date July 1, 1986) in order to be exempt from impact fees has resulted in a rush of applications for permits. Although a consulting Plans Examiner has been engaged to review plans, there is no guarantee all applications will be processed by June 30th.

He proposed an amendment to the ordinance to provide exemption to applicants with a completed application in the Planning & Development office at close of business June 25, 1986. Additionally, anyone who has a valid building permit by the effective date of the ordinance would be exempt. Staff would be opposed to extending the applications and deadline beyond today.

Discussion: Imposing a fee when no ordinance has been recorded with the Secretary of State; moratorium; applications in process with no permit in hand by July 1st, etc.

Mr. Rice advised "the close of business June 25, 1986" should be changed to July 1 or such other date as the ordinance becomes effective.

COMPETITIVE DISCOUNT

Rich Clarendon, Transportation Department, referring to a previous decision by the Board to apply the competitive discount factor to certain impact fees for non-residential uses in the transportation areas, recommended the competitive discount not be applied.

Kelvin Lindbloom opposed the "grandfathering" provision and suggested adoption of the original impact fees. He made a comparison of road construction costs between State of Florida and counties.

Recess/reconvene. All members present except Mr. Chance.

Bill Close supported "grandfathering" and suggested a change in terminology on page 8, paragraph "b" under "Grandfathered", to delete "is extended." He said that he has a valid building permit, which he will have to extend during construction of his house, and if the wording is not changed he will be required to pay impact fees.

The County Attorney advised Mr. Close that as long as he is operating under a valid permit extension he does not have to pay.

Maurice Goodnight, Vice Chairman of the Tourist Development Council, (TDC) and Chairman of its Budget Committee, referred to proposed fees for motels/hotels and recommended that the fees should be no greater than the \$509 per unit fee the Board suggested.

Alan Prather, attorney, stated his opinion that residential fees should be lower and commercial fees competitive. He supported the amendments proposed by Craig Richardson. He was concerned that if the Administrative Procedures are not adopted with the Ordinance there is a potential for problems in administration and how credits are done.

Rob Rogers, Executive Director of Manatee County Housing Authority, said the Authority feels if it is not exempted from impact fees it would not be able to provide low income housing to the County.

(Enter Mr. Chance)

Allen Lambert - Favored the general concept of impact fees.

Donald Zimmerman - Commented on the moratorium issue and unfairness of the impact fee schedule.

Linda Wheeler, representing Carmel Industries, said she believes these impact fees are excessive.

Dan Zuber, representing the Building Association in Manatee County,
 = expressed concerned they have not seen the administrative procedure document;
 = agreed that the fees recommended by the Planning Commission should be the ones adopted in this ordinance;
 = agreed with Craig Richardson and Alan Prather on the credit provisions of the ordinance;
 = felt that anyone who has applied for permits before the effective date of the ordinance should not have to pay these impact fees as long as the application is substantially complete.

Caleb Grimes, attorney, said he was not opposed to the fees if applied equitably and supported credit provision for on-site transportation improvements and on-site recreational facilities. He expressed concern on application of the competitive factor where an independent analysis is done.

Avery Gould inquired if developers have been signing a document indicating they understand that they will have to pay the fees.

Mary Shepard opposed credits to developers for parks and recreation.

Ray Hayes, Executive Director, Builders Association of Manatee County, opposed changing section 120d.2.3b and suggested that all applications for permits be accepted up to the close of business the day prior to implementation of this ordinance.

(End of Public Comments)

CORRESPONDENCE

Motion was made by Mrs. Glass, and seconded by Mrs. Hooper, to enter into record correspondence from:

- (1) The Sierra Club, Sarasota-Manatee Chapter, dated June 11, 1986, re: Impact Fee Schedule
- (2) Siemon, Larsen & Purdy, dated June 25, 1986, Re: Proposed Manatee County Impact Fee Ordinance, signed by Craig Richardson, Jr.

Motion carried unanimously.

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Discussion: Credits to the developer for participation in utility line installations; County participation in the W. R. Grace water line. Jerome Gostkowski, Transportation Department, and Charlie Hunsicker, County Administrator's Office, responded to specific questions on those subjects.

Bob Lossfield, Harlan Bartholomew and Associates, responded to specific questions on transportation credit formula; source of information in terms of interest rates for the purposes of the fee schedule; capture and diversion rate information; competitive factor; distinction between general commercial and shopping center categories as listed in the fee schedule.

SUMMARY

Surcharges: Cities; Administrative

Barbara Levin: question of surcharges to cities need not be answered prior to adoption of ordinance. County Departments formulating plans and legal counsel will submit draft language of administrative surcharges to the Board in the near future.

Credits

Fred Bosselman: Florida legislative language on question of "Credits" must be used by the County; credits must be given for public facilities that are built; County may not give credit for on-site facilities, or facilities that are necessary to provide safe and adequate access to a particular development.

He advised that the safest course of action would be for the Board to merely quote the exact language of the statute in the ordinance regarding point credits. His response to question was that the Ordinance as presently worded on credits provides a legally viable position. Administrative Procedure Manual does not have to be approved at the time the Board adopts the Ordinance and no foreseen problem with administrative procedures in interpretation.

He agreed with Mr. Rice that it would be prudent to extend the cut-off date for building permit applications and not use the June 25, 1986, 4:30 p.m. date.

MOTIONS ON ORDINANCE

Transportation: 100% Fees (Failed)

Mr. Chetlain moved to adopt the original 100 percent, legally defensible impact fees in transportation that includes residential, commercial and industrial. Motion was seconded by Mrs. Glass. Voting "Aye" were Mr. Chetlain and Mrs. Glass. Voting "Nay" were Mr. Chance, Mr. Fletcher and Mrs. Hooper. Motion failed.

Grandfathering (Amendment Carried)

Section 120D.2.b, Page 9 Mr. Rice recommended deletion of the words "is extended and..." and that the paragraph read "...those units for which building permits have been issued, unless and until the building permit expires or otherwise terminated as provided in the Southern Standard Building Code as adopted by Manatee County."

The Chairman stated he would accept a motion to amend Paragraph 2.b. on Page 9, as outlined by the Attorney. Mrs. Hooper so moved. Motion was seconded by Mr. Chance. Voting "Aye" were Mr. Chance, Mr. Fletcher and Mrs. Hooper. Mrs. Glass and Mr. Chetlain voted "Nay". Motion carried.

Competitive Use Factor/Competitive Analysis (Amendment Carried)

Section 120E.3. Page 11

Motion was made by Mrs. Glass, and seconded by Mr. Chance, to create new subsection:

c. An independent impact analysis prepared pursuant to this Ordinance and submitted to the County shall use the competitive factor multiplier provided in Schedule "E".

Voting "Aye" were Mr. Chance, Mrs. Glass, Mr. Fletcher and Mrs. Hooper. Mr. Chetlain voted "Nay". Motion carried.

Credits: Amendment (Carried)

Section 120G.1, Page 24

Mr. Chetlain moved to add sentence to paragraph to read:

"For the purpose of this section, a road lying on the boundary of Manatee County and another County which is identified in the County Major Thoroughfare Plan, Right-of-Way Needs Plan, or is another Transportation improvement need identified by this ordinance shall be considered in Manatee County."

Motion was seconded by Mrs. Glass and carried unanimously.

Motion Reconsidered

Upon concern by Mr. Chance about the need to have an interlocal agreement with Sarasota County relating to impact fees, Mrs. Hooper moved to reconsider the previous motion on the change to Section 120G.1, Credits. Motion was seconded by Mr. Chance and carried unanimously.

Jerome Gostkowski, Public Works, noted that the County has an interlocal agreement covering University Parkway which addresses maintenance, permitting, access points and expenditure of funds.

The County Attorney indicated that he had no knowledge that the Interlocal agreement addresses impact fees.

Motion to Defer (Carried)

Mrs. Glass moved to defer action on the proposed change in Section 120G.1, Credits, and to instruct Mr. Rice to contact the Sarasota County Attorney to work out an agreement. Motion was seconded by Mr. Chetlain and carried unanimously.

PARKS AND RECREATION:

Private Facilities, Credits (Amendment Carried)

Section 120G.4.b, page 27,

Motion to delete section b., Private facility, page 27, failed for lack of second.

Mr. Chance moved to replace "30" percent with 50 percent in both instances in Section 120G.4.b, page 27:

Paragraph to read:

b. A credit of up to fifty percent (50%) of the park impact fee component shall be provided for any contribution, payment or construction of a permanent on-site private recreation facility in Manatee County provided by the developer for the use of its residents. Valuation of credit shall be made upon the fifty percent (50%) Fair Market Value of the contribution, payment, construction or dedication, as provided in the Administrative Procedures.

Voting "Aye" were Mr. Chance, Mr. Fletcher and Mrs. Hooper. Mr. Chetlain and Mrs. Glass voted "Nay". Motion carried.

Commercial Fee Schedule, (Hotels/Motels) (Amendment Carried)

Section 120H, Page 31

Carol Clarke advised that the Planning Commission recommended \$205 per hotel/motel room instead of \$1,271 as this fee level is competitive with other communities.

Mr. Chance moved to use the figure \$205. Motion was seconded by Mrs. Hooper. Voting "Aye" was Mr. Chance, Mr. Fletcher and Mrs. Hooper. Mr. Chetlain and Mrs. Glass voted "Nay". Motion carried.

Section Three. Administrative Surcharge, Page 33

Barbara Levin submitted an addition concerning Administrative Surcharges as follows:

"The Board of County Commissioners may impose, by resolution, a surcharge on impact fees due or collected pursuant to this Ordinance. The surcharge shall include a fee for the purpose of administering the impact fee ordinance and shall be applied to credits for improvements made in lieu of cash payment for impact fees. A surcharge shall additionally be imposed upon impact fees determined by independent impact analysis".

Nancy Stroud, Planning Department, noted that most counties collect impact fees at the time the building permit is issued.

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Mr. Rice said the proper motion would be to adopt Ordinance 86-09 as amended with editorial changes as required.

After discussion, motion to authorize staff to bring the amended Ordinance to the Board at 2:30 p.m., June 26, 1986 was withdrawn.

Mr. Chance moved to adopt Ordinance 86-09 as amended. Motion was seconded by Mr. Fletcher. Voting "Aye" was Mr. Fletcher. Voting "Nay" were Mr. Chance, Mr. Chetlain, Mrs. Glass and Mrs. Hooper. Motion failed.

Mrs. Glass moved to continue the public hearing to the following evening after the Planning Commission meeting. Motion was seconded by Mrs. Hooper.

After discussion, Mrs. Glass changed her motion and moved to continue this public hearing to Friday morning at 9:30 or as soon thereafter as same may be heard. Motion was seconded by Mr. Chetlain. Voting "Aye" were Mr. Chetlain, Mr. Fletcher and Mrs. Glass. Voting "Nay" were Mr. Chance and Mrs. Hooper. Motion carried.

MEETING ADJOURNED

There being no further business, the meeting was recessed.

Attest:



Recessed: 12:00 a.m.

APPROVED:

Walter H. Fletcher
Chairman 8/12/86