

INDIAN RIVER COUNTY, FLORIDA

M E M O R A N D U M

TO: Jason E. Brown
County Administrator

THROUGH: Stan Boling, AICP
Community Development Director

THROUGH: Sasan Rohani, AICP; Chief, Long-Range Planning

FROM: Bill Schutt, AICP; Senior Economic Development Planner, Long-Range Planning

DATE: November 7, 2018

RE: Request to Review Proposed Impact Fee Update Scope of Services, Authorize Staff to Initiate the Consultant Selection Process for the Impact Fee Update, and Formally Initiate an Impact Fee Ordinance Revision

It is requested that the data herein presented be given formal consideration by the Board of County Commissioners at its regular meeting of November 20, 2018.

DESCRIPTION AND CONDITIONS

In May of 2005, the Board of County Commissioners adopted a new impact fee ordinance with an effective date of July 1, 2005. That ordinance established eight (8) new non-traffic impact fees and increased the traffic impact fee rate. At the time of adoption of the impact fee ordinance, it was recognized that periodic updates to the impact fee rate schedules would be necessary due to changes in the components of the fee, such as construction and land costs. 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. On June 13, 2017, three years after the most recent 2014 impact fee update, the Board of County Commissioners reviewed the impact fee schedule, considered updating it, and decided to postpone an impact fee schedule update until 2019. The Board also indicated it wanted a regular schedule of updating impact fees every five years (see Attachment 1).

The 2014 update was driven by the Board's direction to develop a sound methodology for reducing non-residential impact fees in order to encourage economic development. The resulting 2014 Impact Fee Update incorporated a new element (the Affordable Growth model), which enabled staff to calculate the amount that the County can "buy down" or subsidize non-residential impact fees with other revenues (such as the local option sales tax) relative to low-to-moderate background growth rates. Implicit in the adoption of the Affordable Growth model was the assumption that the

County would periodically revisit the growth rates, available “buy down” revenue, and policies that have supported a purposeful reduction of impact fee rates for non-residential projects.

On October 14, 2014 the Board ultimately voted to adopt new impact fee schedules that incorporated reduced impact fee rates and, consistent with the findings of the 2014 Impact Fee Study Final Report, also voted to discontinue collection of impact fees for Correctional Facilities, Solid Waste Facilities, and Library Facilities determining to use other revenue sources for those facilities. Those impact fee categories remain in the County’s impact fee ordinance with a statement in the code that the Board has determined to not use impact fees as the revenue source for these facilities. Because those facilities are still in the code, the Board could re-activate those impact fees in the future if it so desires.

As with all impact fee updates, consultant expertise is needed. Staff has drafted the attached Scope of Services (Attachment 2) to update the County’s impact fee ordinance and rate schedules (excluding the three discontinued impact fee categories), together with an update of the affordable growth model. Once the scope of services is approved by the Board along with authorization to proceed with the update, staff will incorporate the scope into a formal request for qualifications (RFQ) document and initiate the consultant selection process.

ANALYSIS

Purpose of Impact Fees

By definition, an impact fee is a one-time charge levied against new development for the purpose of financing expansion of a capital facility. In Florida, impact fee requirements have evolved through various court decisions over the years and in more recent years have been specifically supported, authorized, and regulated by state statute (the “Florida Impact Fee Act” FS 163.31801).

Impact fees are not taxes. For that reason, impact fees are subject to different rules than are taxes. As with fees generally, impact fees must be structured such that the fee, which a feepayer pays, must be directly proportional to the benefit that the feepayer receives.

Consistent with case law, impact fees must be used only for capacity producing capital improvements necessitated by new growth. Impact fees may not be used for operation and maintenance expenses, nor may impact fees be used to correct existing deficiencies.

Impact fees are thus intended to assign the burden of paying for a portion of new public capital facilities to new residents and businesses that use or benefit from the capital facility, while at the same time assuring that new development does not reduce the quality of life for existing residents and businesses. As part of an impact fee program, quality of life is measured through establishing a level of service standard for each impact fee program category (such as traffic, parks, schools, and fire/EMS). Maintaining the level of service for a particular public facility/service results in maintaining the quality of life for existing and new residents. The level of service for each of the impact fee program categories is listed within the County’s Comprehensive Plan as well as the County impact fee ordinance.

Scope of Services

As structured, the draft scope of services (Attachment 2) is greatly reduced in scale from the previous 2014 effort. Based on the Board's 2014 decision, the proposed scope does not include an evaluation or update for Correctional Facilities, Solid Waste Facilities, or Library Facilities. The scope is also reduced because the previous effort included a full review of all components of all fee categories, development of a legally defensible methodology for reducing non-residential impact fees, and revisiting level of service standards. The current update focuses on updating those elements that were likely to have changed significantly since 2014, such as land and construction costs, grant funding, and other revenue data. On the other hand, fee variables such as trip length and trip generation rates will not be revisited in this scope largely because no new guidance has been issued and no major changes have occurred since 2014 affecting those variables.

Although some elements of previous updates will not be undertaken in this update the attached scope does include an update of the local growth rate and the availability of "buy down" revenue used in the Affordable Growth model and resulting changes and updated policy options for fee rates. Staff anticipates that changes in some components (such as the growth rate and facility costs) will push fees higher while other changes (such as the sales tax credit component and increased availability of "buy down" revenue resulting from the sales tax extension approved by voters in 2016) will push fees lower. Staff also anticipates applying the same types of policy decisions made during the 2014 update to keep non-residential impact fee rates low.

One new item in the proposed scope is an evaluation of the County's three separate transportation impact fee benefit districts (north, central, and south county). To increase funding flexibility for transportation projects, the County should evaluate and consider reducing the number of benefit districts to two or possibly one. Consequently, the proposed scope includes a benefit district evaluation task.

With approval of the draft scope of services by the Board at its November 20, 2018 meeting, an RFQ can be issued by December with consultant proposals due by January. Consistent with that schedule, the Board could approve a consultant contract in February 2019. Staff estimates the study will take six to nine months to complete from issuance of a notice to proceed.

Specify 5 Year Update Timeframe

At its June 13, 2017 meeting in addition to determining to conduct an impact fee update in 2019, the Board directed staff to draft an amendment to the Impact Fee Ordinance to specify that the impact fee schedule shall be reviewed and updated every 5 years versus the existing wording that requires the Board to simply review the impact fee schedule "at least once every third year". Staff has drafted that change and seeks any initial comments from the Board regarding that change and authorization to initiate a formal ordinance change.

FINANCIAL IMPACT

The estimated cost of impact fee consultant services is \$120,000. Charges from the impact fee consultant will be paid with revenue from the Impact Fee administration fund - Impact Fees/Administration/Other Professional Services (10320415-033190).

RECOMMENDATION

Staff recommends that the Board of County Commissioners:

1. Review the proposed scope of services for the impact fee update, make any necessary changes, and authorize staff to initiate the consultant selection process for the update.
2. Provide staff any initial comments on the draft Impact Fee Ordinance amendment and authorize staff to initiate a formal ordinance amendment.

ATTACHMENTS:

1. Portion of June 13, 2017 Board of County Commissioners Meeting Minutes
2. Scope of Services for Indian River County Impact Fee Update
3. Draft Impact Fee Ordinance Amendment for Specific 5 Year Update Timeframe

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