

on the Palm Beach County impact fee. In fact, it was that fee that the Florida Court of Appeals said was a reasonable fee and established good case precedent for the rest of the state. Palm Beach County's fee works on the basis of a formula that considers trip generation, trip length, trip distribution, construction costs, and credit for motor fuel revenue. The fee is assessed by land use types such as residential, commercial, industrial, manufacturing, etc. A gross fee is calculated, and credits are subtracted to get a net fee.

Some land uses have been exempted. For example, government activities are often not required to pay impact fees. Churches have been very successful in having themselves exempted from impact fees, and in some cases the local governments have decided, for policy reasons, to exempt low income housing.

The fees also vary in terms of when they are collected. Most fees in Florida are collected at the building permit stage. This seems to be the easiest for local governments to administer. There is significant pressure from the development community to collect impact fees very late in the process, at certificate of occupancy, which allows the building community to transfer the costs to the consumers. A number of counties have tried to collect the fees at an early stage in the building process, to provide more time to build the roads.

Most ordinances allow for fee agreements so that the government can negotiate with the developer to collect the fee at a different time than the normal time. This is particularly useful for a developer who wants to achieve some credits for land or facility contributions that he has made. It allows him to know what he is going to be credited for right away. In exchange, the government gets its fee earlier in the process than is typical.

## ROAD IMPACT FEES IN BROWARD COUNTY

by

Gerald F. Thompson  
Chairman, Broward County Board of  
County Commissioners

### HISTORY

Broward County began assessing road impact fees in 1979, making it one of the earliest governments to do so. The charging of road impact fees was part of a series of strategies adopted by the County, in an attempt to enable infrastructure to keep pace with development.

These strategies included:

- o Adoption of a countywide Land Use Plan in 1977.
- o Adoption of a Park Impact Fee Ordinance in 1977.
- o Approval of a \$250 million bond issue in 1978.
- o Adoption of a School Impact Fee Ordinance in 1979.

Road impact fee assessments in Broward began as "voluntary contributions" by certain developers to compensate for their impact on one particular corridor in western Broward. By voluntary contribution, I mean that the Commission Chairman would say to the developer, "Do you voluntarily agree to contribute these funds?" and the developer, who wanted his plat approved, naturally said yes.

The system quickly expanded to cover impacts on many roads, including charges for "missing links" which were not yet built. The County used a computerized traffic analysis model to estimate the proposed development's traffic on each critical road segment. Staff then did numerous hand calculations to yield fees on each of these segments.

The early years of this system were plagued by several major problems. These were:

- o rapid fluctuations in policy, regarding discounts or waivers for certain types of developments, and regarding the relationship of the impact fee to other roadway requirements.
- o an inability to spend the revenues received, due both to the County Attorney's advice to withhold spending until legal issues were settled, and because the revenues were in hundreds of separate accounts, none of which had much money in them.
- o lengthy delays in calculating the amount of the impact fee, because of the large amount of computation involved. This one problem was causing the delay of plat approvals.

Due to these problems, a complete revamping of the road impact fee system began in 1981. This coincided with adoption of the Broward County Land Development Code, which codified the road impact fee system in ordinance form for the first time.

The new system for road impact fees was adopted in 1983, and was called TRIPS, an acronym for Traffic Review and Impact Planning System. TRIPS has been every successful for the County. It has

never been challenged in court, it is technically a superior modelling system, and it solved all of the above problems.

#### WHO PAYS AND WHEN?

Based on the county charter, the Board of County Commissioners exerts influence over development principally at the plat stage. All plats, county-wide, must be approved by the County Commission, and must satisfy eleven areas of regional adequacy in order to gain that approval. This is the stage at which road impact fees are assessed.

All plat approvals, county-wide, are conditioned on the payment of road impact fees. The only waivers are for government facilities and low income housing. Under a new county ordinance, even in these few cases of waivers, the County Commission must designate another source of funds to replace those waived. We feel that it is important to the success of this system that every new development pay its fair share of roadway costs.

Although the amount of the fee is set at the time of plat approval, the payment is not required until the plat is recorded, which can be up to 18 months later. Developers may postpone payment further by entering into a secured agreement with the County to pay the fees, as building permits are issued. This is most common in larger residential developments.

#### HOW MUCH DO THEY PAY?

Road impact fees are calculated by the TRIPS model. To run the model, staff needs only the location, type and magnitude of the proposed development -- for example, 100 townhouse units at a certain intersection. The model estimates the number of trips that will be entering and exiting the development, simulates where they will go in the County, and determines which roads they will use to get to each portion of the County. By this process, the model yields an estimate of the proposed development's traffic impact on each piece of the County regional road system.

Next, in order to charge a fee on a road segment, the model uses two criteria:

- o The road segment must be over-capacity, and
- o An improvement to the capacity of the road segment must be included in the Broward County Year 2000 Transportation Plan (adopted by the MPO).

If these criteria are met, a fee is calculated based on the development's share of the additional traffic which the planned improvement will allow, and on the estimated cost of that planned improvement. The fees on the individual road segments are added together to produce the total road impact fee for the proposed development.

This method of charging fees makes the system very sensitive to the location of the development. A proposed development in an area of adequate roadways will pay a low fee, while a similar development near overcapacity roads will pay relatively high fees. For example, residential plats may be charged as little as \$5 per dwelling unit, or in excess of \$600 per unit, depending on location and timing.

In some extreme cases, we have seen the road impact fee strongly influence development decisions. We believe it is an asset of the system that it can encourage development to occur in locations with adequate facilities. This is in contrast to a system such as Palm Beach County's, where a flat fee is charged regardless of location. We believe that it is fairer that the developer who chooses a site with adequate roadway facilities does not pay a high impact fee because of the others who develop near congested roadways.

Administratively, the system has improved immensely since the early years. The Broward County Office of Planning, which administers the impact fee system, runs TRIPS on an in-house minicomputer, with turnaround time of about two days. The cost of the TRIPS analysis for the typical developer is \$75. Because the system was developed and programmed by County staff, they are able to explain and interpret the results for the developers.

#### REVENUES AND SPENDING OF ROAD IMPACT FEES

The principal measure of the success of the TRIPS system must be in the revenues it produces and the roadways it helps build. The average monthly revenue for the first half of 1986 was \$427,000, which translates to an annual figure of \$5,124,000.

As mentioned earlier, spending the revenues was one of the problems with the initial system. Each road segment for which fees were assessed had its own financial account, and these accounts could not be mixed, but neither did they accumulate enough individually to build any substantial improvements. Under the TRIPS system, the County Commission adopted strictly defined policies which allowed them to "pool" all the fees paid by one development, to be used to improve a road of demonstrated benefit to that development.

The results: in the fiscal year 1985 capital budget, Broward County included \$2,750,000 of road impact fees. In fiscal year 1986, the figure was \$821,149.

#### CONSTRUCTION IN LIEU OF FEES

These budgetary figures are only the proverbial tip of the iceberg. The largest developments in the County commonly have entered into agreements with the County to construct roads in lieu of paying fees. This is of mutual benefit because the developer is guaranteed that the fees are going toward the road he needs, at the time when it is needed; and, the County typically sees the road built

sooner, and at a lower cost, than if the County were doing the construction. A ballpark estimate of the value of this construction already completed in lieu of fees, is \$20,000,000.

These multi-party agreements to get roadways improved have become increasingly popular in the last 2 years. They must include several developers and one or more municipalities, and of course the County, in a cooperative arrangement. For example, the widening of a four mile stretch of Hollywood Boulevard is nearing completion and is the result of an agreement involving 5 developers and the County. A road in the City of Coconut Creek is being widened from 2 to 6 lanes via cooperation between several developers, the county, and the Broward County Expressway Authority. These are but two examples of many roads being built by joint efforts involving developer construction in lieu of impact fees.

#### MONITORING AND ENFORCEMENT OF ROAD IMPACT FEES

One aspect of the impact fee system which was not addressed with the adoption of TRIPS was enforcement of the requirement to pay impact fees. Since many developers opt to pay the fees at the time they receive a building permit, and since most building permits in the County are issued by one of Broward's 28 municipalities, the County had no mechanism to ensure the timely payment of the fees. The ultimate payment is secured by letters of credit, bonds or liens.

This issue was not addressed until 1984, when a Monitoring and Enforcement Section was created within the County's Office of Planning.

The system set up by the new section utilizes the Environmental Quality Control Board (EQCB) as an information source. Before applying for a building permit, every developer is required to secure approval from the EQCB for water and wastewater facilities. By getting copies of all EQCB permits, staff is able to ascertain which developers are about to apply for building permits, and can check on whether the appropriate impact fees have been paid. If not, a letter is sent to the municipality (with a copy to the developer), requesting that the building permit not be issued until the matter is resolved.

This process, which involves checking an average of 40 EQCB permits per day, is organized using the Office of Planning computer. The information, which is shared by EQCB, also provides feedback from the municipalities on issuance of building permits and certificates of occupancy. The new program, called Permit Monitoring, was initiated in November, 1984.

The results of Permit Monitoring to date have been successful in terms of compliance, and have also shown that the program was sorely needed. Revenues from road impact fees jumped from a 1984 monthly average of \$229,000 to a 1985 monthly average of \$427,000.

Cooperation from Broward's 28 municipalities has been excellent, with some building officials calling the County to make sure that developers applying for permits have paid the impact fee. Most encouraging of all, the number of cases which have been referred to the County's attorneys, because staff could not obtain the fees which were due, has been very low. As of this writing, only 5 such cases are pending.

#### RELATED ROAD REQUIREMENTS AT PLATTING

There are two related requirements which the County places on new developments at the platting stage. The first is a requirement to dedicate right-of-way along major roads in accordance with the Broward County Trafficways Plan. This is a Right-Of-Way Preservation Plan which enables the County to obtain the property needed for the ultimate cross-sections of major roads. The trafficways plan has been in effect since 1962, and has worked very effectively.

The second requirement is that the developer must provide for "safe and adequate access" between his development and the regional road system. This can include requirements to construct turn lanes, median cuts, additional laneage, signals, and similar improvements on or adjacent to the site. These improvements for safe and adequate access are in addition to the road impact fees charged.

#### SUMMARY

To summarize the features of Broward's road impact fee:

- o All developments that are platted are assessed.
- o The fees are linked to specific impacts of the development.
- o The system is geographically sensitive.
- o The calculation of the fee is done in a rapid and reliable manner that the development community accepts as fair.
- o The revenues are being spent to improve roadways.
- o The system encourages cooperative efforts among developers, municipalities and the County to construct roadways.