ROCKY MOUNTAIN LAND USE INSTITUTE

THE WILDERNESS CITY:
NATURE, CULTURE, ECONOMY IN THE NEXT WEST

Private Payment for Public Goods:
Implementing Private Revenues in the West

ROBERT H. FREILICH, D. Sc., LLM. – Freilich & Popowitz, Los Angeles, CA
ROBERT W. BURCHELL, Ph.D. – Rutgers University, New Brunswick, NJ
JAMES C. NICHOLAS, Ph.D. – University of Florida (Emer.), Gainesville, FL
JACK S. NYMAN – M.Arch. M.Des.S. – Baruch College, CUNY, NYC, NY

Friday Morning Session
8:30–10:00 a.m.
Monetizing Renewable Energy and Rainwater Capture: Revenues for Local Government

ROBERT H. FREILICH, D. Sc., LLM.
Freilich & Popowitz, Los Angeles, CA
San Diego General Plan: Growth Management Element, Freilich & Leitner, Principal Consultant, 1979

Legend
- Urbanized Area
- Planned Urbanized Area
- Future Urbanized Area

Building Permits Issued
- 1979: 9,000 BPs, 8,000 Outside, 1,000 Inside
- 1983: 16,000 BPs, 8,000 Outside, 8,000 Inside
Concurrency

- Timing and Sequencing (police powers)
- CIP (fiscal powers) 20 year prioritized CIP
- Carrying Capacity of Existing and Planned Infrastructure
- Establishing Levels of Service (LOS)
Sustainable Development Areas (2010 - 2030)

Legend
Santa Fe County

Adopted or Proposed Community Plans

Existing Communities

Municipalities
City of Santa Fe Annexation Area
Tribal Lands

Sustainable Development Areas
SDA-1
SDA-2
SDA-3
County's growth management quota system (GMQS) requiring new subdivision applications to compete for limited number of available new building rights allocated by county each year constituted reasonable exercise of county's police power, since GMQS regulation achieved objectives enumerated in state statutes by regulating population density, **phasing development of services and facilities**, and regulating land use based upon impact on community. *West's C.R.S.A. § § 29–20–104(1)(e–g), 30–28–115.*

See also, *Boulder Builders Group v. City of Boulder* 759 P.2d 752 (Colo. App. 1988) (population quota)
Funding Facilities

Analysis

Deficiencies

Facilities for Existing Dev.

Facilities for New Dev.

General Rev.
Ad Valorem Tax
License/Excise Tax
Utility Rates
User Fees

Transfers
Joint Funding
Asset Mgmnt.
Trans.Corps

Impact Fees, TDDs,
Mandatory Dedications
Improvement Requirements
Mitigation Fees, PIDs

Adopt LOS Standards

No Deficiencies
Regulatory Mechanisms for Open Space, Agriculture and Wilderness Preservation

- Preferential property tax treatment
- Exclusive agricultural zones
- Flexible zoning: clustering, bonus density and planned developments
- Agricultural districts by soil, productivity and location to public facilities
- Purchase/Transfer of development rights programs - first appellate Florida case (*Hollywood*)
- Capital improvements program and concurrency system
- Conservation easements
Renewable Energy & Rainwater Capture

Monetizing renewable energy and rainwater capture further enhances city and county revenues while achieving reductions in global warming and GHG emissions. Monetization produces the following benefits:

- Tie-in to Smart Growth and New Urbanism;
- Reduces Impact Fees and/or Utility rates for water and electrical energy;
- Reduced fossil fuel energy consumption and GHG;
- Provides fiscal and economic benefits public and private entities;
- Protects ecosystems.
Buildings in the United States emit more GHGs than any other country in the world except China.
Greening buildings prior to installing rainwater capture and/or solar systems, will better:

- Insulate buildings to reduce energy expense;
- conserve water;
- improve indoor and outdoor air quality; and
- increase the use of recycled materials.

Leading to reduced maintenance, electrical and water utility costs and enhance the overall value of such buildings; and

- Increase Fiscal Revenues to both municipalities and private owners.
Monetization of Solar, Wind & Rainwater Capture

- Rooftop solar energy systems reduce electrical utility energy rates by **80%**
- Rainwater capture systems reduce utility water rates by **30 – 50%**
- Building a mounted wind turbine facility of 4 – 10 kW costs $30,000 - $40,000 installed and can meet **100%** of the electrical needs of a home and eliminate electrical utility costs
- Installing solar and wind facilities, with a PID bonding the savings of energy costs to the purchaser, will reduce the cost to the developer by **100%**
Direct Economic Benefits

- Reduction in energy costs (24% for commercial and 33% for office buildings)
- Higher rents (36.5% greater per square foot)
- Sustained occupancy rates (4.1% higher)
- Higher sale value (64% higher per square foot)
- Additional tax credits, deductions and incentives
Public Improvement Districts (PIDs)

- A Renewable Energy or Water Recapture Public Improvement District or Public Utility:
  - Reaches all owners within the jurisdiction.
  - Provides renewable energy and water recapture capital improvements.
  - Aggregates procurement and financing.
  - Works through municipal finance markets.
  - Generates revenue for the local government and avoids problems of PACE priority with mortgages.
Public Improvement Districts (PIDs)

- Municipality gets:
  - Long-term returns.
  - Improved financial structuring.
  - Higher valued property that generates additional property tax revenue.
  - Creation of new jobs, increasing occupational licensing taxes and sales tax revenue.
Energy Financing

A strategy as to how to form a renewable solar energy process that will bring in POU and IOUs, to obtain credit for renewable energy portfolios. The city or county will form a PID covering their respective jurisdictions. Residential and non-residential property owners will have the right to voluntarily opt into the PID. The PID or the local government will issue bonds or notes backed by monthly assessments on the owners equal to the cost of installing and maintaining the solar system. The size of the system (4 to 10 KV) will be based on the amount of savings that the installed system will generate from existing and anticipated future rates, including for summer peak hours, with the highest electricity rates. The local government adopts standards to govern the location, size, design and engineering of the systems to insure that the savings will cover the assessments with some left over for the owner. Freilich & Popowitz have drafted proprietary code provisions. The property owner will pay the assessments from the money he/she would otherwise have paid directly to the utility sufficient to amortize the investment. The POU or IOU for the service area, will enter into an agreement with the local government and the PID, guaranteeing any defaults in assessment payments, providing a secondary source of security for the credit rating of the bonds or notes.
The CIP as a Coordinator of Revenues for Capital Facilities

ROBERT W. BURCHELL, Ph.D., CO-DIRECTOR
Rutgers University, New Brunswick, New Jersey
Capital Improvement Plan – What Is It? 
A Short- to Medium-Term Guide (4 – 10 years)

- Identifies significant construction projects or equipment purchases
- Provides a schedule for planning and construction
- Establishes a ranking or prioritization of projects
- Indicates which projects can be funded during the initial and subsequent periods of the CIP
- Provides jurisdictional bounds for the projects’ locations
- Identifies funding sources and provides a financial plan for implementation
What Are Capital Improvement Projects As Part of the Capital Improvement Plan?

- Roads, bridges, water/sewer systems
- Heavy equipment and vehicles
- Office equipment
- The above items have a high cost and useful life of multiple years
- Also may involve studies, engineering and design cost, land acquisitions, or landfill reclamation
Why Do a Capital Improvement Plan? Why Is it Necessary to Do?

- To use taxpayers dollars wisely
- To focus on the deliberate construction, replacement, or repair of capital facilities
- To bring all types of players and geographic locations into the process
- To inform citizens where investments are being made
- To avoid abrupt and unplanned-for expenditures
- To place the jurisdiction in a better position to garner and effectively use state and federal funds
Steps to a Capital Improvement Plan (CIP): What Is the Sequence of Events in CIP Derivation?

**STEPS**

- **One:** Identify capital improvement projects and costs
- **Two:** Prioritize capital improvement projects
- **Three:** Narrow the project list in terms of ability to pay
- **Four:** Distribute projects by cost over CIP years
- **Five:** Prepare a fiscal analysis to help gauge future ability to pay
- **Six:** Seek review and comment by the public
- **Seven:** Pass information to the impact fee preparer
- **Eight:** Prepare a financial plan for implementing the CIP
- **Nine:** Adopt the Capital Improvement Plan
- **Ten:** Include the CIP in the Comprehensive Plan
Step One – Identifying Capital Improvement Projects and Costs

- This is done through a series of meetings related to the CIP at geographic locations throughout the jurisdiction at the beginning of the CIP process.

- Additional meetings are held with community/county department heads and staff.

- More meetings are held with interested parties, developers, owners of property.

- All projects, from each of the above sources, are brought forward with estimates of costs.
Step Two – Prioritizing Capital Improvement Projects

The reason for prioritizing is to determine which projects will receive more versus less attention during the initial 4- to 10-year period. Weightings vary according to locally-determined priorities.

Priorities can be calculated using a six-category scale:

- x 1.33 1. Reduces a threat to public safety
- x 1.00 2. Improves the quality of local public services
- x 1.00 3. Provides incentive for economic development
- x 1.00 4. Reduces long-term public operating costs
- x 1.33 5. Furthers the goals of the Comprehensive Plan
- x 1.33 6. Leverages nonresidential investment in terms of number/type of residential properties served

Projects are given a rating multiplied by the above weightings, and results are averaged to determine an overall score.
Step Three – Narrowing the Capital Improvement Project in Terms of Ability to Pay

- Projects are reviewed with department heads to verify costs and correct for duplications or omissions, and to ensure projects can be supported with public money.

- Projects are pared down both in cost and number and are classified into three potential funding groups:
  1. Current
  2. Deferred
  3. Indefinite

- *Current projects* are likely to be funded.
- *Deferred projects* are lower priority, to be funded possibly in the next 4–10 years.
- *Indefinite projects* probably will not be funded.
This step arrays projects by likely funding sources. These are:

1. State Grants  
2. Federal Grants  
3. Various Bonds  
4. TIF  
5. PIDs  
6. Special Assessment Districts  
7. Impact Fees  
8. Dedications  
9. Developer Agreements  
10. State Road Fund

This provides some sense of what must be obtained from the local jurisdiction’s funding sources.

Projects are displayed by planning area or adequate public facilities district.
Step Five – Conducting a Short Fiscal Analysis

- This projects growth into the future in the form of housing units and employment.
- These projections form the basis for estimates of forthcoming property tax, GRT, and other revenue.
- This provides some idea of what can be raised via traditional revenue sources.
- The fiscal analysis should show a fiscal future with adequate revenue growth in most fund categories.
Step Six – Seeking Review of the Capital Improvement Program (CIP)

- Schedule meetings to have hearings on the CIP.
- Ensure at meetings that planning staff and financial staff are there to assist in defending priorities or exclusion from funding.
- Present finalized CIP indicating overall dollar magnitude of plan, including key capital projects of each type.
- Attempt to convey that this is an updatable and malleable document such that projects are neither institutionalized nor frozen out.
Step Seven – Passing Information from the CIP to the Impact Fee Preparer

- Information from the CIP serves as input to the impact fee calculation.
- This is information on which projects are repair or rehabilitation versus new.
- This is information on the sources to pay for these projects other than by impact fees.
- This is information on the location and timing of projects.
Step Eight – Preparing a Financial Plan To Carry Out the CIP

- A financial plan follows the CIP.
- It includes an analysis of the costs of the CIP and the revenue sources to pay for the costs.
- Each revenue source is defined, specified as to current and future magnitudes, and a structure is initiated to enable implementation.
- This is a detailed plan of future revenues as well as who will assume responsibility for these revenues.
Step Nine – Adopt the Capital Improvement Plan

- The Capital Improvement Plan should be adopted by resolution.

- The CIP is not a regulation and does not have to be formally passed by the city council or county commissioners.

- It should receive similar recognition and treatment as the comprehensive plan.

- The CIP is an implementer of planning objectives and should be viewed as such.
Step Ten – Including the CIP as Part of the Comprehensive Plan

- The CIP should also be included by reference in the Comprehensive Plan.

- In addition, the CIP should be linked with the Adequate Public Facilities Ordinance to schedule timing and location of development.

- The CIP should be viewed as a gatekeeper for development: No capital facilities, no development.

- The CIP could be, but does not have to be, adopted as a component of the Comprehensive Plan.
CONCLUSIONS

- The CIP is an increasingly important player in local land development.

- It coordinates the physical and financial components of land planning.

- The CIP must be carefully done because it is the basis of, and rationale for, revenue raising.

- If not done carefully, as with impact fees, lawsuits will result.
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Deriving Impact Fees Using the CIP as a Guide

JAMES C. NICHOLAS, Ph.D. – Univ. of Florida, Gainesville, FL
Model Drawn from New Mexico

The New Mexico Development Fees Act [5-8-1 to 5-8-42 NMSA 1978] requires as a precondition for impact fees:

- Preparation and adoption of “Land Use” Assumption – development projections
- Preparation and adoption of a CIP
- Base impact fees on the CIP and consistent with the Land Use Assumptions
Santa Fe County
Sustainable Growth Management Plan

Sustainable Development Areas (2010 - 2030)

Legend
Santa Fe County

Adopted or Proposed Community Plans

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Tribal Lands

Sustainable Development Areas
SDA-1
SDA-2
SDA-3
Santa Fe’s Growth

- New People: 26,544
- Dwelling Units: 12,195
- Employees: 3,368
- Non-Res Floor Area: 1,562,860
- Additional VMT - Daily
  - Total Area: 463,867
    - SDA-1: 271,899
    - SDA-2: 163,376
    - SDA-3: 28,592
Levels of Service

- Parks, Open Space & Trails
  - Parks 1.2 acres per 1,000
  - Open Space 8.16 acres per 1,000
  - Trails 0.2 miles per 1,000
- Sheriff 111 FT² per 1,000
- Corrections 1,615 FT² per 1,000
- Fire/Rescue 2,472 FT² per 1,000
Levels of Service - Continued

- Water & Sewer
  - Residential: 1 ERU
  - Non-Residential: 0.27 ERUs

- Roads
  - SDA-1: LOS D
  - SDA-2: LOS C
  - SDA-3: LOC C

- Stormwater: 24 hour retention
The CIP – All Facilities

- ALL FACILITIES
  - Impact Fee Eligible: $312,062,817
  - Existing Deficiencies: $90,104,142
  - Other Revenues: $164,576,774
  - Cost of Growth: $82,275,637
  - Impact Fees: $64,788,965
- Still Needed: $82,697,078
The CIP - Parks

- Parks, Open Space and Trails
  - Total Capital Improvements $62,479,000
  - Not Impact Fee Eligible $0
  - Impact Fee Eligible $62,479,000
  - Existing Deficiencies $6,823,550
  - Cost of Growth $4,159,950
## Impact Fees - Parks

<table>
<thead>
<tr>
<th>Park, Open Space &amp; Trail Improvements</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Total</td>
<td>$62,479,000</td>
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<tr>
<td>Anticipated Revenue</td>
<td>$51,495,500</td>
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<tr>
<td>Net County Cost</td>
<td>$10,983,500</td>
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<td>Existing Deficiencies</td>
<td>$6,823,550</td>
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<tr>
<td>Cost of Growth</td>
<td>$4,159,950</td>
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<tr>
<td>New Population</td>
<td>27,607</td>
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<tr>
<td><strong>Cost per Capita:</strong></td>
<td></td>
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<tr>
<td>Total</td>
<td>$2,263.18</td>
</tr>
<tr>
<td>Growth Cost</td>
<td>$150.69</td>
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</table>

43
# Impact Fees - Parks

<table>
<thead>
<tr>
<th>Type</th>
<th>Occupancy</th>
<th>Cost</th>
<th>Credit</th>
<th>Net Cost</th>
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<tbody>
<tr>
<td>Residential single-family</td>
<td>2.185</td>
<td>$4,945.65</td>
<td>$4,616.36</td>
<td>$329.30</td>
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<tr>
<td>Low-rise apartment</td>
<td>1.631</td>
<td>$3,691.20</td>
<td>$3,445.43</td>
<td>$245.77</td>
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<tr>
<td>High-rise apartment</td>
<td>1.440</td>
<td>$3,258.87</td>
<td>$3,041.88</td>
<td>$216.99</td>
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<tr>
<td>Condominium townhouse</td>
<td>1.782</td>
<td>$4,033.56</td>
<td>$3,764.99</td>
<td>$268.57</td>
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<tr>
<td>High-rise condominium</td>
<td>1.440</td>
<td>$3,258.87</td>
<td>$3,041.88</td>
<td>$216.99</td>
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<tr>
<td>Mobile homes</td>
<td>2.839</td>
<td>$6,424.20</td>
<td>$5,996.46</td>
<td>$427.75</td>
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<tr>
<td>Hotel</td>
<td>2.176</td>
<td>$4,923.86</td>
<td>$4,596.01</td>
<td>$327.85</td>
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<tr>
<td>Bed &amp; Breakfast</td>
<td>2.000</td>
<td>$4,526.35</td>
<td>$4,224.97</td>
<td>$301.38</td>
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<tr>
<td>RV Park</td>
<td>2.400</td>
<td>$5,431.62</td>
<td>$5,069.96</td>
<td>$361.66</td>
</tr>
<tr>
<td>Campground</td>
<td>2.400</td>
<td>$5,431.62</td>
<td>$5,069.96</td>
<td>$361.66</td>
</tr>
<tr>
<td>Vacation Rental Unit</td>
<td>2.400</td>
<td>$4,945.65</td>
<td>$4,616.36</td>
<td>$329.30</td>
</tr>
</tbody>
</table>
### The CIP - Roads

<table>
<thead>
<tr>
<th>SDA-1</th>
<th>Total Capital Improvements</th>
<th>$14,347,888</th>
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<tbody>
<tr>
<td></td>
<td>Existing Deficiencies</td>
<td>$5,516,593</td>
</tr>
<tr>
<td></td>
<td>Cost of Growth</td>
<td>$4,545,780</td>
</tr>
<tr>
<td>SDA-2</td>
<td>Total Capital Improvements</td>
<td>$22,712,184</td>
</tr>
<tr>
<td></td>
<td>Existing Deficiencies</td>
<td>$12,482,196</td>
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<tr>
<td></td>
<td>Cost of Growth</td>
<td>$8,116,063</td>
</tr>
<tr>
<td>SDA-3</td>
<td>Total Capital Improvements</td>
<td>$4,351,763</td>
</tr>
<tr>
<td></td>
<td>Existing Deficiencies</td>
<td>$2,284,011</td>
</tr>
<tr>
<td></td>
<td>Cost of Growth</td>
<td>$2,081,185</td>
</tr>
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</table>
New Travel

<table>
<thead>
<tr>
<th>Area – Miles per Day</th>
<th>463,867</th>
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</thead>
<tbody>
<tr>
<td>SDA-1</td>
<td>271,899</td>
</tr>
<tr>
<td>SDA-2</td>
<td>163,376</td>
</tr>
<tr>
<td>SDA-3</td>
<td>28,592</td>
</tr>
</tbody>
</table>
# Cost per VMT

## New VMT and Improvements by SDA

<table>
<thead>
<tr>
<th>Area</th>
<th>Cost of Growth</th>
<th>New VMT</th>
<th>Cost per VMT</th>
</tr>
</thead>
<tbody>
<tr>
<td>SDA-1</td>
<td>$4,525,780</td>
<td>271,899</td>
<td>$16.65</td>
</tr>
<tr>
<td>SDA-1</td>
<td>$8,116,063</td>
<td>163,376</td>
<td>$49.68</td>
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<tr>
<td>SDA-1</td>
<td>$2,081,185</td>
<td>28,592</td>
<td>$72.79</td>
</tr>
<tr>
<td>Total</td>
<td>$16,349,640</td>
<td>463,867</td>
<td>$35.25</td>
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</tbody>
</table>
## Road Impact Fee

<table>
<thead>
<tr>
<th>Land Use</th>
<th>Net Road Cost per Unit</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>SDA-1</td>
</tr>
<tr>
<td>Residential single-family</td>
<td>$600</td>
</tr>
<tr>
<td>Hotel per Room</td>
<td>$464</td>
</tr>
<tr>
<td>Industrial park per 1k</td>
<td>$459</td>
</tr>
<tr>
<td>General Office per 1k</td>
<td></td>
</tr>
<tr>
<td>50,000 to 100,000 sf</td>
<td>$364</td>
</tr>
<tr>
<td>Shopping Center per 1k</td>
<td></td>
</tr>
<tr>
<td>50,000 to 100,000 sf</td>
<td>$616</td>
</tr>
<tr>
<td>Fast food with drive-through</td>
<td>$278</td>
</tr>
<tr>
<td>New car sales per 1k</td>
<td>$578</td>
</tr>
<tr>
<td>Convenience market per 1k</td>
<td>$547</td>
</tr>
</tbody>
</table>
Impact Fees -- Summary.

- Parks -- $217 - $330/unit
- Roads -- $1,176 - $2,626/unit
- Impact Fees are under consideration
What Is Wrong with Impact Fees?:
The Real Estate Industry’s Perspective

JACK S. NYMAN  M.Arch.  M.Des.S. (r.e)
Baruch College, The City University of New York, NYC
Overview

- States with Impact Fee Acts
- Definitions, State Acts & Standards
- Impact Fees vs. Special Assessments
- Framing the Question
- Industry Perspective
- Value Creation
- Economics
- Current Trends
- Conclusions
Homebuyer’s Perspective
Definitions

- Impact Fees
- Special Assessment
- Infrastructure
Definition: Impact Fee

- A charge on *new development* to help fund and pay for the construction of the *needed expansion of offsite capital improvements caused by the new development.*

- An impact fee is implemented by a local government.
States with Impact Fee Acts

State Impact Fee Enabling Acts  Clancy Mullen, Duncan Associates
## Impact Fee Act Standards

<table>
<thead>
<tr>
<th>State</th>
<th>Guiding Terms</th>
<th>No Higher Level of Service</th>
<th>Construction Credits</th>
<th>Revenue Credits</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arizona</td>
<td>Reasonable relationship</td>
<td></td>
<td>explicit</td>
<td>explicit</td>
</tr>
<tr>
<td>California</td>
<td>Reasonable relationship</td>
<td>explicit</td>
<td>explicit*</td>
<td>explicit*</td>
</tr>
<tr>
<td>Colorado</td>
<td>directly related</td>
<td>explicit</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Idaho</td>
<td>proportionate share; reasonably relates</td>
<td>explicit</td>
<td>explicit</td>
<td>explicit</td>
</tr>
<tr>
<td>Montana</td>
<td>proportionate share; reasonably relates</td>
<td>explicit</td>
<td>explicit</td>
<td>explicit</td>
</tr>
<tr>
<td>Nevada</td>
<td>necessitated by and attributable to</td>
<td></td>
<td>explicit</td>
<td></td>
</tr>
<tr>
<td>New Mexico</td>
<td>proportionate share; necessitated by and attributable to</td>
<td></td>
<td>explicit</td>
<td></td>
</tr>
<tr>
<td>Oregon</td>
<td>Equitable share</td>
<td></td>
<td>explicit</td>
<td>explicit</td>
</tr>
<tr>
<td>Texas</td>
<td>necessitated by and attributable to</td>
<td>explicit</td>
<td>explicit</td>
<td>explicit</td>
</tr>
<tr>
<td>Utah</td>
<td>proportionate share; roughly proportionate; reasonably related</td>
<td></td>
<td>explicit</td>
<td>explicit</td>
</tr>
<tr>
<td>Washington</td>
<td>proportionate share; reasonably related</td>
<td>explicit</td>
<td>explicit</td>
<td>explicit</td>
</tr>
</tbody>
</table>

* Developer credits explicit for road and park in-kind contributions; revenue credits explicit for special district taxes used to finance schools

State Impact Fee Enabling Acts **Clancy Mullen, Duncan Associates**
Definition: Special Assessment

- A unique charge that government can assess against real estate parcels for public projects.

- This charge is levied in a specific geographic area known as a Special Assessment District (S.A.D.)

- A special assessment may only be levied against parcels of real estate which have been identified as having received a direct and unique "benefit" from the public project.

- Water, sewer, roads, paving / typical improvements
## Impact Fee vs Special Assessment

<table>
<thead>
<tr>
<th></th>
<th>Impact Fee</th>
<th>Special Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Paid by</strong></td>
<td>Home builder (new home buyers)</td>
<td>Property owners within a service area, including existing homeowners and new home buyers.</td>
</tr>
<tr>
<td><strong>Area</strong></td>
<td><em>New development</em></td>
<td>Larger <em>geographic area</em></td>
</tr>
<tr>
<td><strong>Standards</strong></td>
<td>A reasonable relationship to the burden imposed to provide additional necessary public services to the development.</td>
<td>Real estate which have been identified as having received a <em>direct and unique</em> &quot;benefit&quot; from the public project.</td>
</tr>
<tr>
<td><strong>Typical Uses</strong></td>
<td>Water, sewer, roads, police, fire</td>
<td>Wastewater treatment plant. parks, libraries.</td>
</tr>
</tbody>
</table>
Impact Fee: Framing the Question

What are the costs actually \textit{created} by new growth?

\textbf{vs.}

What costs does the city \textit{decide to incur} and charge new growth for?

- Does the service provide a benefit to the community as a whole? If it does, it is a \textit{community service obligation}, not a \textit{new growth} obligation.
Impact fees should **maintain** services, not **expand** services.

Builders are willing to pay legitimate impact fees.

Municipalities will attempt to assess Impact Fees for **area-wide services** instead of **specific impacts**.

For area-wide services, special assessment districts or service areas are an equitable method to distribute such costs.
When a developer builds a house, the *municipality gains* a revenue stream.

New house = property taxes collected by the municipality for the life of the property

An annuity created by the developer.

<table>
<thead>
<tr>
<th>Discount Rate</th>
<th>$1,000</th>
<th>$2,000</th>
</tr>
</thead>
<tbody>
<tr>
<td>3.0%</td>
<td>$23,115</td>
<td>$46,230</td>
</tr>
<tr>
<td>4.0%</td>
<td>$19,793</td>
<td>$39,586</td>
</tr>
<tr>
<td>5.0%</td>
<td>$17,159</td>
<td>$34,318</td>
</tr>
<tr>
<td>6.0%</td>
<td>$15,046</td>
<td>$30,093</td>
</tr>
<tr>
<td>7.0%</td>
<td>$13,332</td>
<td>$26,663</td>
</tr>
</tbody>
</table>
Economics of Impact Fees

- Unfair to burden homebuyers with impact fee costs that are then paid through mortgage.
- Potential buyers are “crowded out” by impact fees.
- $1000 impact fee adds $220 in “hidden costs” of financing, brokerage commission & developer profit.
- TOTAL FEE COST IS $1,220

<table>
<thead>
<tr>
<th>Description</th>
<th>Price</th>
<th>Mortgage Rate</th>
<th>Mortgage Payment</th>
<th>Taxes and Insurance</th>
<th>Minimum Income Needed</th>
<th>Households that can afford house</th>
</tr>
</thead>
<tbody>
<tr>
<td>Without Fee</td>
<td>$243,300</td>
<td>6.25%</td>
<td>$1,412.97</td>
<td>$300.68</td>
<td>$73,441.86</td>
<td>34,609,498</td>
</tr>
<tr>
<td>Including Fee</td>
<td>$244,520</td>
<td>6.25%</td>
<td>$1,420.05</td>
<td>$302.19</td>
<td>$73,810.13</td>
<td>34,344,271</td>
</tr>
<tr>
<td>Difference</td>
<td>$1,220</td>
<td></td>
<td>$7.09</td>
<td>$1.51</td>
<td>$368.27</td>
<td>265,227</td>
</tr>
</tbody>
</table>

Households Priced Out of the Market by a $1,000 Impact Fee that Increases the Median New Home Price by $1,220

Source: National Association of Home Builders
Impact Fee Trends

- Arizona
- Texas
Arizona: Impact Fee Changes

- May 2011, Arizona state law changed
- Added a definition of services: Fire, police, water, sewer, streets, parks and libraries.
- Added in a 10 year refund provision for unbuilt projects, 15 years for water and sewer servicing (TX, CA have 5 year refund periods)
- Previously, cities were charging impact fees for build-outs planned in 30 yrs.
Arizona: Impact Fee Changes (cont’d)

- The statutes “haven't been updated in the 20 years since they were adopted, and we grow differently, we build differently and cities plan differently”

Spencer Kamps, chief lobbyist for the Home Builders Association of Central Arizona.
Texas Impact Fees

- Developer/builder-friendly compared to Arizona and California
- Average fee between $3,000 and $5,000 / unit
- Cost-sharing agreement structure:
  - Cities fund infrastructure
  - If the developer builds on the city’s master plan, city reimburses developer.
- Only project specific improvements are the responsibility of the developer.
Impact Fee Statute / Problems

Estrella Mountain Ranch Park Phase II

Total Driving Distance: Approx 50 Miles

You Live Here
Trends in Impact Fees

- Fees are being cut or reduced to encourage development.
- State definitions and limits to impact fees are being set as a check on municipalities.
Conclusions

- Impact fees need to be targeted for defined services.
- Impact fees are a cost & thus a burden to buyer
- Should explore alternative methods of delivery?
Homeowner Impact

“Hey, where are the developers and our elected officials?”

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