

CITY OF MELBOURNE, FLORIDA
MINUTES – SPECIAL MEETING BEFORE CITY COUNCIL
JUNE 7, 2005



A special meeting of the City Council was held in the City Council Chamber, 900 East Strawbridge Avenue, and was called to order at 6:30 p.m. by Mayor Harry C. Goode, Jr.

1. Pledge of Allegiance.
2. Roll Call.

Present:	Harry C. Goode, Jr.	Mayor
	Richard Contreras	Vice Mayor, District 1
	Mark LaRusso	Council Member, District 2
	Kathy Meehan	Council Member, District 3
	Grace Walker	Council Member, District 4
	Cheryl Palmer	Council Member, District 5
	Loretta Isenberg-Hand	Council Member, District 6
	Jack M. Schluckebier, Ph.D.	City Manager
	Paul R. Gougelman, III	City Attorney
	Cathy L. Baker	Assistant City Clerk
	Amy W. Elliott	Assistant City Manager
	Cindy Dittmer	Planning & Economic Development Director

3. COUNCIL PRESENTATION RE: An Overview of the Transportation, Recreation, and Public Facilities Impact Fee Study

Mrs. Elliott briefed Council. At Council's direction, the City contracted with Public Resources Management Group, Inc. (PRMG) to perform a review of transportation and recreation impact fees and to calculate a public facilities impact fee.

Melbourne has a significant capital improvement program and additional funding sources are needed to finance these projects. One available source is impact fees collected from new development to partially offset the cost of capital improvements to support that growth. This provides that existing citizens don't bear 100% of the costs attributable to growth. Impact fees are only used to fund additional capacity improvements.

Transportation impact fees are used to partially finance road capacity improvements. Recreation impact fees are used to partially finance additional capacity improvements to parks and leisure services facilities. Public facilities impact fees are used to partially finance additional capacity improvements for police, fire, and general administrative facilities, and in Melbourne's case are limited to buildings and fire trucks.

Recreation impact fees have not been updated since 1997. Transportation impact fees have not been updated since they were established in 1995. Melbourne does not currently have a public facilities impact fee.

The consultants' recommendations include increasing the recreation impact fee from \$288 to \$540, increasing the transportation impact fee from \$864 to \$1268, and establishing a public facilities impact fee of \$250 for a single-family home. The recreation impact fees apply only to dwelling units. The transportation and public facilities impact fees apply to both residential and non-residential land uses.

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Staff concurs with the consultants' recommendations. At its June 2, 2005 meeting the Planning and Zoning Board voted unanimously to approve the proposed impact fees. Acceptance of the report would set in motion a process of ordinance consideration.

Mrs. Elliott introduced Henry Thomas, PRMG, and Greg Kern, AVID Engineering.

Henry Thomas, Vice President, PRMB, Maitland, explained the study. Public facilities impact fees are new to Florida; however, many communities have individual police, fire and library impact fees. This study combines public facilities fees to include police, fire and public administrative facilities in one fee. He said large fire equipment is included in the fee; however, police vehicles are not. Funding is for assets with a long life and police vehicles have a quick turnover.

There are no state statutes regarding development of impact fees; however, the State has provided rules/regulations for guidance based on Florida case law. He commented that Brevard County communities were some of the first (1970s) to establish impact fees.

Continuing, Mr. Thomas explained the dual rational nexus for impact fees. The City must relate capital needs and capital expenditures to growth, must have a revenue-producing ordinance and maintain a separate accounting of these funds. Impact fees should be based on the capital cost requirements anticipated for providing service to new development and reasonable level of service standards that meet the needs of the City.

There are two distinct classes of fees - residential and commercial. Commercial is figured on a square foot basis. Some communities have adopted a single impact fee; however, he believes it is fairer to determine by land use, particularly with police and fire figured in. Some businesses rely more heavily on police and fire services.

Mr. Thomas said the fee should reflect development trends, capital needs, and level of service. He noted that the Comprehensive Plan includes standards for activities, such as ballfield, basketball courts, tennis courts, etc. The consultants looked at both the current book costs and the costs included in the CIP when reviewing capital costs. In developing the impact fees, a 15-year period was covered and included 1.5% percent a year in future residential growth. Commercial development was reviewed; however, future commercial development is speculative beyond what is in the pipeline.

Mr. Thomas discussed parks and recreation. The City's standard for open space is four acres per 1,000 population. The projected 1.5% population growth to the year 2020 requires an additional 76 acres to maintain this standard. The study earmarks some money to meet this demand and cure current deficiencies.

Future facilities were costed at current book value, which is very conservative, using an 80/20 allocation. This means only 20% of the cost for the auditorium, community centers, pavilions and recreation equipment is billed to future residents. The current impact fee is \$120 per person, based on a household of 2.4, for a total of \$288. The proposed recreation impact fee increases to \$225 per person for a total of \$540 for a single-family household.

The proposed public facilities impact fee varies based on use; \$250 per dwelling unit for single-family residential, with a high of \$1,593.66 for an eating and drinking establishment to

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a low of \$37.50 per unit for warehousing. He noted that Melbourne's proposed fees are less than the local communities used to compare the complete public facilities fee.

Vice Mayor Contreras asked if the proposal recommends that every citizen in the City of Melbourne be tacked with \$250. Mr. Thomas responded the fee is per dwelling, not per person and is only for new construction; growth paying for growth.

Continuing, Mr. Thomas stated that the impact fees are dedicated. The recreation fees must be used to fund capital needs of the recreation fund. The public facilities impact fees could be used to help with the expansion of city hall, or fire and police facilities; however, won't be adequate to entirely fund these needs. The impact fees will compliment the general fund and related capital projects.

Mayor Goode asked the percentage of new homes purchased by current Melbourne residents. Mr. Thomas said he could not provide an honest answer; that was not reviewed in detail. He added that people use that point to argue against impact fees, because impact fees are presumably tied to the development cycle. However, it does not matter whether they live here or come from outside, the new home created the growth.

Council Member Walker questioned whether a resident that moves from one home to another would pay an impact fee. Mr. Thomas responded only a newly constructed home. He also noted that on the commercial side, if an existing business changes to a less intense use, it will receive credit for the less intense use. Mr. Thomas added that the attempt is to tie the impact fees to new construction.

Council Member Palmer asked for a ballpark figure of cities that have user impact fees. Mr. Thomas responded maybe a dozen, the administrative impact fee is fairly new. However, there are many cities with police, fire and recreation impact fees.

Mrs. Palmer asked how long impact fees have been in use. Mr. Thomas answered since the early 1970s in the State of Florida; they have been found to be valid within municipal home rule. Fast growing communities tend to be the ones that look at these fees carefully and keep them current. He noted that Melbourne did not grow quite as fast and that is probably why the City has not looked at impact fees in a while.

Mrs. Elliott noted that the City's transportation impact fee is fairly new; however, the recreation impact fee dates back to the 1980s.

Council Member Meehan stated the Florida League of Cities is gathering data regarding impact fees and she would like to have this information when making her decision.

Mr. Thomas stated that information will not affect the level of the fee and what can be charged. The underlying issue is to anticipate significant growth in the next 15 years. The proposal is a recommended level of the fee that the City can support and justify. Keep in mind the City can adopt at less than 100% of the justified cost; Brevard County did this with the transportation impact fee.

Mrs. Meehan asked if the fees should be reviewed every three or five years. Mrs. Elliott agreed. She said the City's fees have not been reviewed for 10 years. We have experienced an explosive increase in construction costs in the last few years.

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Council Member LaRusso referenced the use of current book value for future replacements and additions and asked if this would put us back into the position we are in now. The proposal anticipates a future growth at 1.5% and should also anticipate growth in costs. Mr. Thomas responded that cost is hard to predict; the construction industry won't project into the future. The proposal could have provided a 2.5% percentage inflation indicator; however, there is no timing. The proposal is tied to population not to years in time. He said the cost to develop tennis courts in five years is not known and there is not enough good information to guess. The consultants and staff are comfortable with the increases; they are not too large and are easier to defend.

Mrs. Palmer questioned whether the extrapolations are based since the year 2000, stating that period of time has been a boom time. Mr. Thomas said no, the future population growth was provided by the Planning Department based on the City's current plans. The 1.5% increase is probably much lower than the City has been experiencing.

Mr. LaRusso asked if there had been a challenge to any impact fees implemented by any city, based on the fact that no Florida Statutes govern the process. Mr. Thomas responded yes, this is where the State's case law derives. The criteria he cited earlier is from the various court cases. There was a challenge to the Dunedin rational nexus test. He added that some communities that collected fees and didn't use them were sued and the money was refunded. It is okay to save for a new facility; however, the money should not be held for more than five to seven years.

Mr. LaRusso asked about normal challenges. Mr. Thomas stated all aspects of the fees have been challenged, particularly school and transportation fees. There have been political challenges from developers, but not many court cases. He noted that highway costs are fairly unrefutable. A fee can always be challenged; however, based on the way the City has set up the fees, he does not see that happening.

Mrs. Palmer questioned why the legislature has not regulated impact fees. Mr. Thomas responded that there is a move afoot to regulate impact fees. Ultimately homebuyers bear the brunt of the fees; however, the development community is a stronger voice and the developers have promoted the bill before the legislature now. He suggested that Council might want to consider delaying the implementation for a period of time. The argument is being made that developers have a number of units under contract that due to the 2004 hurricane season have not been built. The fee would apply to those units; however, they were sold months ago and the developer can't pass on the fee to the homebuyer. A few communities put in a lag schedule to a future date to provide an opportunity for the current inventory of homes to catch up.

Mayor Goode said he was in the Florida Legislature for 14 years and is aware that cities and counties have a limited source of revenue they can raise. The City is prudent in adopting these fees and not going way out of line. He added that PRMG is doing a good job.

Greg Kern, AVID Engineering, discussed the transportation impact fees. The methodology is based on different elements - trips generated by land use (with a reduction for pass-by trips), trip length by land use within the City, roadway construction cost, and capacity of roadway improvements.

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The transportation impact fee formula remains as it was, and credits have historically been approved on a case-by-case basis. The City has 27 land uses for fee determination and the proposal recommends adding an additional 12, such as movie theater. The more uses in the ordinance, the easier to implement the transportation impact fee.

The Brevard Area Transportation Study was used to determine the trip length on City roads. It provides an idea of trip length on a County-wide basis. He took that trip length and adjusted for trips that occur on City roadways. They only looked at trip lengths origin to destination traveling on City roadways; State and County roadways were deleted.

Mr. Schluckebier explained the significance of that fact, which is at the bottom of why our proposed transportation impact fee is still only about one-third of the County's. What they call a 100% fee outside the City and what we call a 100% fee inside the City are vastly different based on that one standard for trip length. Trips inside the City are a shorter distance; that is the assumption going into this study. Mr. Schluckebier explained that trip lengths from the Brevard Area Transportation Study are based on a trip purpose. He noted that some differences in trip length calculations between the County versus City are: home based work – 9.89 versus 1.24 miles; home based shopping – 6.44 versus 0.81 miles; home based social/recreational – 7.21 versus 0.91 miles; home based miscellaneous – 7.70 versus 0.97 miles; and non-home based – 6.85 versus 0.86 miles.

Mr. Kern continued, and stated the impact fee charge is based on trip length generalized by land use - residential trip purposes (0.98 miles); employment (1.05); retail/commercial (0.83); recreation/entertainment (0.88); restaurant (0.91); motel/hotel (0.86); and health/other (0.97). The average trip length in the City was customized per land use to differentiate between the land uses, providing a little more data and more defensibility.

The Brevard County Long Range Transportation Plan cost improvements was used to calculate the cost of roadway capacity improvements, looking at three different capacity improvements: two-lane to four-lane (\$1.9 million per lane mile); new two-lane urban roadway (\$2.6 million per lane mile); and new four-lane urban roadway (\$8.8 million per lane mile).

The average cost per lane mile is \$2,122,583, including engineering, right-of-way and construction costs. Mr. Kern noted that right-of-way was 10-15% of the construction cost and now is anywhere from 70-100% of the construction cost. This is a great basis for updating the fees every few years to adjust for such cost factors.

Additional capacity is the final component and is based on FDOT levels of service, which the City has adopted. A two-lane roadway at level of service D is 13,600 cars per day and a four-lane is 29,300 cars per day. A per lane mile is 7,850 additional daily trips that can be put on a one-lane mile of roadway.

Mr. Kern summarized some frequently used land uses and their projected rate: single-family house – less than 10 trips per day; office – upwards of 15 trips per day; convenience store – 738 trips per day per 1,000 s.f., and fast food, 500 trips per day per 1,000 s.f. This is an incredible impact on the transportation system. He explained that convenience stores are given reductions for pass-by trips; trips that were not necessarily generated by the business.

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Mr. Kern concluded his presentation with a rate comparison between Melbourne, Brevard County and Palm Bay. Responding to Mayor Goode, Mr. Kern noted that the rates he quoted are the proposed rates.

Council Member Hand asked if residents are required to pay the Melbourne rate plus the County rate. Mr. Shluckebier explained that the City's transportation impact fees deal with future capacity of City streets only. Based on the fact that no one is planning for upgrades and capacity use on County roads inside the City, that remains an unsolved problem. The City may have an interest in asking the County to apply full impact fees in the City because no capacity charges are accruing for County roads inside the City.

Mr. Kern agreed. He has worked with the Brevard Metropolitan Planning Organization and the County can only fund one-third of its needs planned out to the next 15-20 years – they have funding issues. In terms of funding for impact fees it is easy to see there is a gap.

Mrs. Palmer questioned whether we are proposing that the County charge City properties on County roads. Mr. Schluckebier responded that staff is proposing that the Council give some consideration to that idea in terms of direction to staff. It is a totally separate issue, because the calculation of the fees is so complicated. We want to do what is right by law. We acknowledge the fact that in the City there is no one charging for the use and future capacity use of County roads. He said that the City should investigate whether we should be authorized to charge all new dwellings an impact fee when it is on or adjacent to a County road. The idea is to generate some money by agreement that could be used on County roads in Melbourne.

Mrs. Palmer asked if the impact fees that the City imposes on properties on County roads are not used on those County roads. Mr. Schluckebier stated that is correct; however, in the past staff has been directed to work with the County, such as Croton Road where the City provided funding for a short section of the road.

Discussion followed regarding the trip generating figures for local and County streets. Mrs. Palmer stated that she has a problem because most of the City's commercial businesses are located on County, State, or Federal roadways. Mr. Schluckebier explained that the impact of the homes and businesses is considered exclusive on the City's street network. Locating on a County road has an additional impact on the County road; however, that's not in the City's formula.

Mr. Kern noted that Seminole County implemented a county-wide impact fee; it does not matter whether a development is unincorporated or incorporated. Where Brevard County is not charging an impact fee, something like this would basically fund the gap. The City's impact fee is structured looking at the City only. What is lost is that the County is not accounting for the impact on County roads.

Mrs. Palmer stated that a drive-through restaurant or bank/savings and loan pays upward of \$100,000 in impact fees. Mr. Kern stated that is correct based on the number of trips generated and the impact they have.

Mr. Contreras stated that what was presented this evening only takes into account the impact on City of Melbourne streets. Mr. Kern stated that is correct. Mr. Contreras said that the City

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Manager is suggesting that instead of operating in a vacuum, the City look at a larger area, such as Wickham Road. The proposal being suggested has nothing to do with County roads.

Mr. Schluckebier stated that he is asking that Council give some consideration to exploring possibilities with the County; however, he may have inadvertently confused the matter. The only action for Council tonight is to look exclusively at the product the consultant is presenting dealing with City streets and updating the City's existing transportation impact fee.

Mrs. Palmer stated that when looking at the roads in the City that are currently overcrowded, most, if not all, are County roads and yet our City impact fee would not be used for County roadways. Mr. Schluckebier stated that is correct unless Council directs otherwise. He noted that on certain key projects Council has directed such, and he anticipates this would be done in the future – the need is more than evident.

Mr. Contreras stated there are a significant number of roadways the City has no control over. He realizes this evening is solely about Melbourne; however, the City Manager made a point that we should not lose sight of the significant impact of County roads on the City.

Mr. Kern stated that if a roadway is to be improved, such as Babcock Street, 80% may be Federal funding that requires a 20% match. The County may come up with 15% and ask the City to provide 5%. The City could use its impact fee in this manner - that is a legitimate use. Mr. Schluckebier stated it may be possible to work with County to negotiate a dual tier where the rational nexus test is met.

Mr. Contreras stated that the nexus rule applies to the City and County and funds would need to be expended in a timely fashion. Mr. Kern stated that the ordinance should require that funds be spent within five to seven years.

Mr. Contreras said funds should apply to County, State, or local use. Mr. Kern stated that the five-year capital improvement program is tied to the impact fees. The County has a list of capital improvements for transportation. Any of the funds used for those types of projects is legitimate and based on the growth in the City and the County it is a valid use of the nexus.

Mr. Contreras stated that the funds should be earmarked, identifying projects for a time certain. The biggest issue citizens have is what is being done with their money. They don't see any derived or real benefit or value added. Timing is extremely valuable.

Mr. LaRusso, referencing the Home Depot situation, commented that the City has not had luck working with the County. He asked how the City can work with an entity that does not count the same way we do. Mayor Goode stated the County has always been and will continue to be remiss in this area.

Mayor Goode stated, and Mr. Schluckebier confirmed, the two issues are not mixed; working with the County is not part of this proposal, but something to consider later.

Mr. Schluckebier stated that what the legislature passed and the governor signed with respect to growth management is going to make it tougher and tougher on cities; it provides that within two years a city must fund an entire five-year plan. The City's five-year capital improvement plan is in the Comp Plan and is updated every year. He noted a lot of cities

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around the State haven't funded for even one year; where the money comes from will be a major new burden on local governments.

Mr. Thomas concluded by recommending that Council adopt the proposed fees that provide a nice increase in capital revenues and a periodic review of the fees.

Mr. Contreras asked about the new accounting system. Mrs. Elliott stated that staff would account for the fees separately; however, there will be no additional noticeable cost. A new account will be created for public facilities, but it will be simple to do and easy to account for. There will be no need for additional staff.

Mrs. Walker asked if the ordinance includes a time frame for review. She noted that every three years has been suggested and asked if it should be more often.

Mr. Schluckebier stated a review every three years would be appropriate. An ordinance will be brought to Council for first reading next week.

Mr. LaRusso asked about the cost for this proposal. Mrs. Elliott confirmed that the study cost \$34,000. Mr. Schluckebier noted that the County's study cost five times as much.

Mrs. Palmer asked if the public hearing would be noticed. Staff confirmed that the public hearing will be advertised in the legal section of the Florida Today Newspaper.

Mr. Contreras thanked PRMG and AVID Engineering for their work on the study. Mr. LaRusso echoed the sentiment. He stated that study was very thorough.

Moved by Meehan/Walker to adopt the report as presented. Motion carried. (Council Members LaRusso and Palmer voted nay.)

4. ADJOURNMENT

Moved by Palmer/Larusso to adjourn. Motion carried unanimously.

The meeting adjourned at 7:43 p.m.



Assistant City Clerk – 6/22/2005

Approved by Council: June 28, 2005