

**INDIAN RIVER COUNTY, FLORIDA**

**M E M O R A N D U M**

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**TO:** Jason E. Brown; County Administrator

**THROUGH:** Roland M. DeBlois, AICP  
Community Development Director

**FROM:** Bill Schutt, AICP  
Chief, Long Range Planning

**DATE:** January 12, 2020

**SUBJECT:** Consideration of Draft Impact Fee Update Study Report

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It is requested that the following information be given formal consideration by the Board of County Commissioners at its regular meeting of January 21, 2020.

**DESCRIPTION AND CONDITIONS**

On March 26, 2019 the Board of County Commissioners (BCC) approved a contract with Tindale-Oliver and Associates, Inc. (TOA) to update six (6) of the County’s impact fees (excludes Correctional Facilities, Solid Waste Facilities, and Library Facilities), update the local growth rate and the availability of “buy down” revenue used in the Affordable Growth model, and evaluate the County’s three separate transportation impact fee benefit districts (north, central, and south county). A draft version of that report has been completed and is attached to this agenda item for BCC review (Attachment 1).

The purpose of this staff report is to provide an overview of the proposed Draft Impact Fee Update Study Report, to identify recent changes to impact fee requirements and allowances, to highlight some key differences between the current draft report and the prior 2014 Impact Fee Update Study Report, and to **identify potential policy decision making points for BCC consideration (highlighted in yellow in this agenda item)**. TOA will provide additional detail and an overview with a PowerPoint presentation at the BCC meeting on January 21<sup>st</sup> and may identify additional policy decision points for BCC consideration.

**ANALYSIS**

The draft Impact Fee Study Update Report provides the technical basis for updating the County’s impact fees. Consistent with state requirements, the most recent available data is used as a foundation for the calculation of the fees. This includes but is not limited to data obtained from a

current facility inventory for each impact fee category, calculation of current weighted population (permanent, plus weighted seasonal), calculation of current functional population (weekly 24 hour population), estimates of cost of current facilities and calculations of per unit cost to the county for expanding those facilities (cost component), and calculation of capital facility expansion related revenue credits attributed to new development.

In Indian River County and in many communities throughout Florida, a consumption-based impact fee methodology is used to establish base impact fee rates. As noted in the report, “a consumption-based impact fee charges new growth the proportionate share of the cost of providing additional infrastructure available for use by new growth. A consumption-based approach ensures that the impact fee is set at a rate that **does not generate sufficient revenues** to correct existing deficiencies”. Credits are factored in to account for the value of future tax contributions of new development for capacity expansion projects. These safe guards, in effect, protect the County from overcharging for impact fees and serves to protect the County from legal challenges for overcharging for impact fees.

### **Recent Changes to State Impact Fee Law**

Since the last impact fee study update, there have been some notable changes to impact fee requirements and allowances from the state legislature. In 2019, House Bill (HB) 207 changed the impact fee act to clarify that:

1. Impact fees cannot be collected prior to building permit issuance; and
2. Impact fee revenues cannot be used to pay debt service for previously approved projects unless reasonably connected to the impact generated by the new residential and commercial construction.

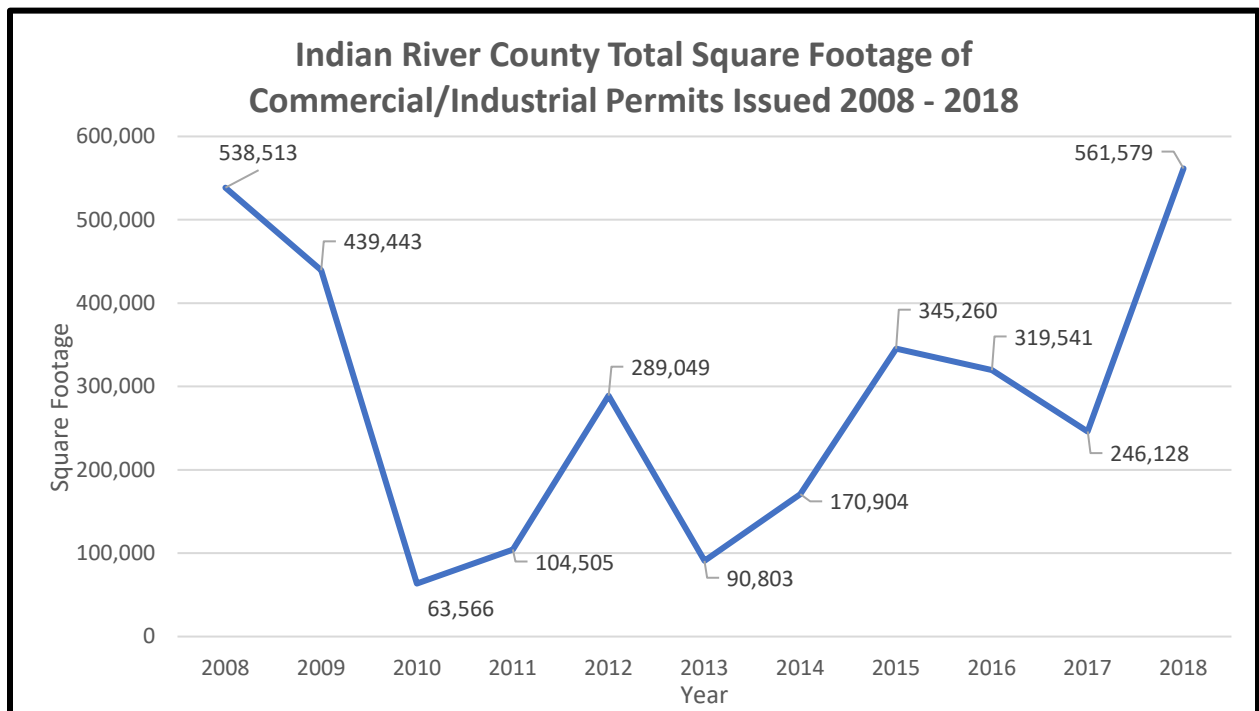
Also in 2019, HB 7103 was adopted that addressed multiple issues, including affordable housing impact fees. Per that HB, the County may now waive/reduce impact fees for affordable housing projects without having to offset the revenue loss. The HB also requires outstanding developer impact fee contribution credits to increase proportional to any impact fee increase enacted by a local government.

### **Affordable Growth and Policy Discount Impact Fee Reductions for Non-Residential Uses**

With the last impact fee study in 2014, the BCC adopted reduced impact fees using policy discounts and affordable growth calculations that calculated the County’s ability to use other revenue sources for capital expansion projects to reduce impact fees. The BCC was concerned about the job market and wanted to encourage new and existing businesses to expand in the County. At that time, building permit records showed that non-residential building permit activity had significantly dropped during the Great Recession and it was not re-bounding as much as anticipated. As a result, the BCC focused a higher impact fee percent reduction amount on non-residential impact fees than on residential impact fees.

Commercial and Industrial building permit activity since the start of the Great Recession is shown in the graph below. As can be seen, building permit square footage for commercial/industrial buildings has fluctuated, with an initial high in 2008 of 538,513 new square feet of commercial/industrial building area that significantly dropped to a low in 2010 with a total of 60,566 new square feet of commercial/industrial building area. Since 2010, the County’s total annual permitted commercial/industrial building square footage has fluctuated and rebounded to a point in 2018 that has now surpassed the high the county saw in 2008 (over 560,000 square feet of new commercial/industrial building area was permitted in 2018).

**POLICY DECISION POINT:** Whether or not to keep or modify overall policy and affordable growth reductions for all commercial/industrial land uses. The various proposed policy and affordable growth reductions are reviewed in greater detail on the next few pages with BCC decision points noted.



### Proposed Impact Fee Schedule

The proposed impact fee schedule (Attachment 2) includes a comparison of the 2014 adopted impact fee rates (reduced/affordable growth calculations) to both the calculated full (100%) 2019 impact fee rate and the proposed 2019 reduced impact fee rates. The proposed 2019 impact fee rates apply reduced/affordable growth percentage reductions to specific impact fee categories similar to the 2014 impact fee study (higher reductions from non-residential versus residential impact fee land uses). Without the policy and Affordable Growth discounts, impact fees in Indian River County would be significantly higher. For instance, the current adopted Single Family

(Detached) - 1,501 to 2,499 square foot impact fees are \$8,623 and for a restaurant it is \$13,693 per 1,000 square feet of building area. If the County were to adopt the actual current calculated impact fees for that size home the impact fees would be \$17,512 and for the restaurant the impact fees would be \$46,545 per 1,000 square feet of building area.

Proposed Affordable Growth and Policy discount percentage reductions by impact fee category along with potential policy decision points are noted in the below summary table. Short explanations in list format with BCC decision points are provided after the table. As noted in the impact fee report, **in all cases, the level of discount for each impact fee category is a policy decision and the fees could be at any level between the levels calculated and 100%.**

Proposed Impact Fee General Affordable Growth and Policy Discount Percentages (% of 100%)							
Overall Land Use	Public Buildings	Emergency Services	Law Enforcement	Parks & Rec.	Transportation	Public Education	
Residential	50%	100%	40%	40%	75%	28%	
Non-Residential	26%	100%	40%	NA	45%	NA	

1. Public Building impact fee rate of 50% for residential categories and 26% for non-residential categories is presented in a two-step percent reduction in the impact fee schedule because affordable growth projections did not support the same with this impact fee update. To achieve the same reduction amounts as in 2014, a 50% policy discount was first applied, followed by an Affordable Growth discount for non-residential uses that brought down this impact fee category for non-residential uses to 26%.

LOS: Adopted LOS is lower than achieved LOS. Adopted LOS is used in the impact fee report.

**POLICY DECISION POINT:** For the Affordable Growth Strategy, the BCC could adopt an 80% impact fee rate across all land uses, which would maintain the adopted LOS. The BCC could also alternatively adopt a 92% impact fee rate for residential uses, which would eliminate the fee for non-residential uses.

2. Emergency Services impact fee rate of 100% for all categories.

LOS: Adopted LOS is lower than achieved LOS. Adopted LOS is used in the impact fee report.

**POLICY DECISION POINT:** Consistent with the Affordable Growth strategy, the report notes that “if historical and programmed levels of non-impact fee funding are continued, the County could stop collecting this fee completely and continue to maintain the LOS”.

3. Law Enforcement impact fees reduced from 100% in 2014 to 40% in the proposed 2019 schedule.

LOS: Achieved LOS is lower than adopted LOS. Per the impact fee report, new development cannot be charged for a higher LOS than what is being provided. Achieved LOS is used in the impact fee report.

**POLICY DECISION POINT:** For the Affordable Growth Strategy, the BCC could adopt a 45% rate specific to residential if the BCC desires to eliminate this fee for non-residential uses.

4. Parks and Recreation impact fees reduced from 69% in 2014 to 40% in the proposed 2019 schedule.

LOS: Achieved LOS is lower than adopted LOS. Per the impact fee report, new development cannot be charged for a higher LOS than what is being provided. Achieved LOS is used in the impact fee report.

**POLICY DECISION POINT:** For the Affordable Growth Strategy, the BCC could adopt anywhere between a 100% and 40% impact fee rate and still maintain the adopted LOS standard. For a 2,000 square foot home, the parks and recreation impact fee reduced by 40% as proposed is \$819. The full 100% parks and recreation impact fee rate would be \$2,048.

5. Transportation impact fees reduced from 100% for residential in 2014 to 75% for residential in 2019 (this proposed reduction attempts to soften the calculated doubling of this impact fee for residential, recognizing the high cost of housing currently in the market place).

LOS: As stated in the impact fee report “the County’s adopted LOS standard (LOS “D” for all roads) is lower than the current achieved LOS. Under the current methodology, even with the full impact fee, unless the County uses other revenue sources, the current achieved LOS for the system will deteriorate and more congestion will be experienced. Unless the available funding for transportation capacity increases significantly in the future, the County will allow the LOS to degrade faster with a lower fee compared to the travel conditions that could be better maintained with the full fee.”

**POLICY DECISION POINT:** the 75% reduction for residential is a recommendation, but if the BCC does not want to reduce or would like to reduce more, that is possible and should be discussed with TOA at the BCC meeting.

6. Educational Facilities impact fee rate of 28% (Educational Facilities impact fee applies only to residential land uses).

LOS: Achieved LOS is lower than adopted LOS. Per the impact fee report, new development cannot be charged for a higher LOS than what is being provided. Achieved

LOS is used in the impact fee report.

**POLICY DECISION POINT:** Per TOA, for the Affordable Growth Strategy, the BCC could adopt anywhere between 45% and 100% impact fee rate and still maintain the adopted LOS standard (45% is based on other historic funding sources continuing and projected annual growth rate of 0.7%). However, based on conversations with school district staff regarding school trends (anticipated reduction in growth of student population with charter schools and the ability to shift students to other schools with more capacity), it is recommended that the previous 28% impact fee rate used in the 2014 impact fee study be maintained. For a 2,000 square foot home, the 28% educational facilities impact fee would be reduced from \$1,702 to \$1,310.

Other notable differences between the proposed draft impact fee schedule and prior (current) adopted impact fee schedule are:

1. **Some Land Use categories changed** due to the release and in some cases reclassification of uses within the Institute of Transportation Engineers (ITE) Trip Generation Manual 10<sup>th</sup> Edition, published in 2017 (see pages 4 – 5 of the Impact Fee Study Update Report for highlights).
2. **The ITE Trip Generation Manual 10<sup>th</sup> Edition adjusted the trip generation rates** for land uses. Old trip count data was removed and replaced with new trip count data. In the case of some land use types, such as warehousing and industrial, trip generation rates decreased (less people working at a location due to more automation) and, when factored into the impact fee calculations, had the effect of lowering the impact fee rate from what it would be under the previous ITE Trip Generation Manual edition.
3. **Addition of two new single-family land use categories with reduced or eliminated impact fees** to help facilitate the construction of new affordable housing. While not a specific directive of the BCC at the original outset of this study, the BCC did separately request that the Affordable Housing Advisory Committee (AHAC) study the affordable housing issue and develop recommendations to present to the BCC. One of the recommendations that the AHAC has agreed to by consensus is to support the reduction of impact fees for affordable housing. That recommendation was expected to be brought to the BCC along with other recommendations all at the same time with completion of the AHAC's work sometime later this year. However, with that work expected to be completed after the conclusion of the impact fee study, staff felt it important to include the AHAC's recommendation as part of the attached proposed DRAFT Impact Fee Study Update Report.

In this case, the proposal includes the addition of:

- a. a single-family home of less than 1,000 square foot land use category with a \$0 impact fee (would not include accessory dwellings to help prevent waiver from benefiting owners of vacation rentals); and
- b. a single-family home between 1,000 square foot and 1,500 square foot for low and very low-income households land use category with a 50% reduced impact fee. This fee category is intended only for non-profit housing providers that would verify incomes on the County's behalf and have enforcement mechanisms to maintain and monitor affordability (e.g. deed restrictions, lease agreements, etc.).

With respect to the less than 1,000 square foot single-family home category, TOA has advised that the County may exempt certain land uses from paying impact fees if they have a 'de-minimis' impact (less than 5% of impact fee collections). In the case of single-family homes of less than 1,000 square feet in size, TOA reviewed Property Appraiser's records and found that since the year 2000, they represent just 0.3% of all single-family homes built in the County (meets the less than 5% requirement).

For the 50% reduction of fees for the proposed single-family home between 1,000 square foot and 1,500 square foot for low and very low-income households category, the County, through passage of HB 7103 in 2019, has the ability to waive/reduce impact fees for affordable housing. While those regulations allow for reductions or waivers for housing of all types for very low (below 50% of area median income), low (between 50% and 80% of area median income), and moderate (between 80% and 120% of area median income), the current recommendation is to restrict the benefit to a 50% waiver to just single-family homes for very low and low-income households. For Indian River County this would translate into an income for a household size of 4 persons to below \$32,500 for the very-low income category and \$52,000 for the low income category (the moderate income category cap is \$78,000 for a household size of 4).

**POLICY DECISION POINT:** Whether or not to keep, modify, or delete the recommendation for the "de-minimis" waiver of impact fees for single family homes of less than 1,000 square feet and whether or not to keep, modify, or delete the recommendation for the 50% waiver for very low, and low income households between 1,000 and 1,500 square feet in size (under air).

### **Proposed Residential Impact Fees as a Percentage of Median Home Sale Price**

With respect to the cost of impact fees and housing, the next page contains a table comparing the proposed 2019 reduced impact fees to the median single-family home price for Indian River County. For single family homes greater than 1,000 square foot in size (excluding the affordable housing category), the proposed 2019 reduced impact fees are between 3.9% and 4.5% of the median home sale price for Indian River County.

<b>Residential Land Use Category</b>	<b>Proposed 2019 Reduced Impact Fee Rate</b>	<b>Median Home Sale Price Oct 2019</b>	<b>% of Median Home Price</b>
Single Family (Detached) - Less than 1,000 sf	\$0	\$248,000	0.00%
Single Family (Detached) - 1,000 to 1,500 sf (Low/Very Low Income)	\$4,423	\$248,000	1.78%
Single Family (Detached) - 1,000 to 1,500 sf	\$8,842	\$248,000	3.57%
Single Family (Detached) - 1,501 to 2,499 sf	\$9,843	\$248,000	3.97%
Single Family (Detached) - 2,500 sf and greater	\$10,993	\$248,000	4.43%
Multi-Family (Low-Rise, 1-2 levels)	\$6,374	\$248,000	2.57%
Multi-Family (Mid-Rise, 3-10 levels)	\$5,133	\$248,000	2.07%
Mobile Home Park/RV (tied down)	\$4,120	\$248,000	1.66%

**School Impact Fees**

During the development of this impact fee study, County staff coordinated with and met with School district staff to discuss challenges that the School District faces with changing enrollment and loss of public students in part to increased educational choices for parents and school-aged children (e.g. addition and expansion of charter schools). From those meetings it was determined that there are projects planned for which impact fees are needed. This includes a planned new wing at the Sebastian River Middle School to replace portables. As noted in the impact fee study update report, it is the School District’s long-standing policy to use portable stations only as a temporary solution to accommodate increases in student population. The School District’s policy is to provide the necessary permanent student stations in the long term through permanent construction.

School District staff have been invited to attend the January 21, 2020 BCC meeting to be available to answer any questions and to provide more information should the BCC request.

**Transportation Benefit Districts**

With the impact fee study update, TOA was asked to review the County’s current three transportation impact fee benefit districts and make a recommendation to keep the current three benefit districts or to reduce to two or one countywide benefit district. That review and copies of a current traffic impact fee benefit district map and proposed traffic impact fee benefit district map are on pages 75 – 78 of the Draft Impact Fee Update Study Report. In this case, TOA recommends that the County reduce the number of transportation impact fee benefit districts from three to two. As proposed, the two benefit districts will divide the county roughly in half, into a northern district and a southern district. Per TOA, these proposed new districts will meet legal requirements to track and allocate collected transportation impact fee funds to transportation projects that will provide a proportional benefit to the feepayer and will bring the majority of the City of Fellsmere into the northern district. It is also noted as a major benefit to the county that with just two districts, there will be less restrictions on where those funds can be used (larger area), which will make it



easier for the County to expend transportation impact fee funds on road capacity expansion projects.

### **SUMMARY**

The proposed Draft Impact Fee Update Study Report and associated impact fee schedule is legally defensible and incorporates past and recent policy directives from the BCC. There are various points in the report that identify opportunities for BCC direction to modify previous policy and to accept or modify additional recommendations.

### **RECOMMENDATION**

Staff recommends that the Board of County Commissioners:

1. Review the draft report;
2. Provide direction to the consultant and county staff on desired policy revisions and/or edits to the Draft Impact Fee Study Update report;
3. Provide direction to staff on whether or not any additional meetings are desired to review the draft report or an updated version of the draft report, and authorize staff to proceed as appropriate in scheduling and conducting those meetings;
4. Authorize staff to draft an ordinance for adoption of the proposed new impact fee schedule and for any needed text revisions to the County's impact fee regulations; and
5. Authorize staff to advertise for a Public Hearing to consider adoption of the new impact fee schedules and any related ordinance changes, with the date of that public hearing to be after any BCC related concerns and requests are addressed.

### **ATTACHMENTS**

- 1.) Draft Impact Fee Update Study Report
- 2.) Draft Proposed Impact Fee Schedule