

**SEMINOLE COUNTY GOVERNMENT
AGENDA MEMORANDUM**

SUBJECT: Follow-up Briefing Regarding The Timing Of Impact Fee Payment

DEPARTMENT: Planning and Development **DIVISION:** Impact Fees/Concurrency

AUTHORIZED BY: Donald S. Fisher **CONTACT:** Ginny Markley **EXT:** 7356

Agenda Date <u>05/27/03</u> Regular <input type="checkbox"/> Consent <input type="checkbox"/> Work Session <input type="checkbox"/> Briefing <input checked="" type="checkbox"/> Public Hearing – 1:30 <input type="checkbox"/> Public Hearing – 7:00 <input type="checkbox"/>
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MOTION/RECOMMENDATION:

- Authorize Planning & Development staff to prepare an ordinance amending the Land Development Code and associated Resolution as described in the staff recommendation; coordinate with the cities to improve impact fee processes; and direct staff to report back to the Board in six-months after implementation with its findings;

Or;

- Take no further action regarding changing the timing of payment of impact fees and water & sewer connection fees.

BACKGROUND:

On December 10, 2002, the Board of County Commissioners authorized staff to proceed with changing the timing of payment of impact fees from the current code requirement, as a condition to the issuance of a Building Permit, to the time of the issuance of a Certificate of Occupancy (C.O.). The Board also directed staff to report back to them with the checks and balances for implementation of the program. Staff reviewed the Road, Fire/Rescue, Library, and School impact fees and developer commitments such as drainage and law enforcement. Although water and sewer connection fees are not impact fees, they were also included in the review.

STAFF FINDINGS:

Analysis of computer system and programs:

The County's current AS-400/HTE computer system will allow a lock on the system to prevent either the issuance of a Building Permit, final inspection, pre-power/power or a Certificate of Occupancy without first collecting the impact fees and/or water and sewer connection fees. A current report of permits issued shows that many permits with assessed impact fees do not obtain a Certificate of

Reviewed by:	
Co Atty:	<u>SL</u>
DFS:	_____
Other:	_____
DCM:	<u>SL</u>
CM:	<u>SL</u>
File No:	<u>bpda01</u>

Occupancy. This is due to either the structure being previously occupied and already having power or the builder failing to call for a Certificate of Occupancy once the structure has been completed and a final inspection is approved by the County. Mobile homes, change of use for non-residential structures, and single-family dwelling permits make up the majority of the permits that are not calling for a C.O. In the year 2002 over 43 permits obtained final inspections and final power without the builder calling for a Certificate of Occupancy. These 43 permits represent \$231,351.74 in impact fees that would not have been collected if the current process required collection at time of the Certificate of Occupancy. Staff feels that this number may rise even higher as some may find it an incentive to not obtain the C.O. so that the payment of fees could be further delayed.

A solution to this problem and a way to capture the permits that do not require a C.O. is to require payment of fees prior to the issuance of pre-power or power on a building instead of at time of C.O. This is usually when the project is substantially completed but still several weeks prior to the issuance of the C.O. This would also resolve the problem with the Builder/Applicant failing to pay the impact fees and then transferring the responsibility to the homeowner with the transfer of ownership. Property title transfer typically takes place once the final inspection is granted but not usually before power is approved. Property title is sometimes transferred without a C.O.

It should be noted that requiring payment prior to approval of pre-power or power would not stop all occupancies of a structure without first paying impact fees and water and sewer connection fees. There will still be the occasional permit where a structure already has power and a new tenant occupies the structure without first calling for a final inspection.

Transfer of ownership during the permitting process:

Staff analyzed the issues and problems encountered in the past when impact fees were collected at the time of C.O. It was noted that there were a great number of permits with uncollected fees and that collection of them was difficult. This was due in part to the ownership of the property changing between the time that the permit was issued and approval of the final inspection or issuance of the C.O. The County was concerned that the new owner was not being notified of the assessed and uncollected fees until after the closing since it was the builder who signed and received the impact fee statement. To overcome this problem, staff in the past prepared and filed in the Public Records a "Notice of Filing" along with a copy of the Impact Fee Statement. This action allowed the title company and contract purchaser to become aware of the assessed fees prior to closing. Once the fees were paid, a "Release of Notice of Filing" was prepared and recorded. This process was repeated for all County and City permits with assessed impact fees.

This practice would need to be reinitiated for those permits issued within the municipalities should the BCC change the timing of payment to a time after the issuance of a Building Permit. Staff does not feel that it would be necessary to prepare and record the filings for county permits should the fees be collected prior to the issuance of pre-power or power. Again, property title transfer typically takes place once the final inspection is granted but not usually before power is approved. However, property title is sometimes transferred without a C.O.

Collection of Impact Fees within a Municipality:

All seven municipalities within Seminole County collect impact fees at the time of the issuance of the Building Permit. All municipalities indicate that they would prefer to collect the county fees at the same time that the city fees are collected. Several municipalities stated that they would be willing to collect the county fees at time of C.O. but thought that it would be confusing and that they could not be held responsible for any uncollected fees. Based on the response from the city staff members, county staff does not feel confident that collecting fees at time of C.O., or pre-power or power will maintain our current level of success for the collection of fees.

In the past, when the county collected fees for the city permits at time of C.O., many C.O.'s were issued without payment of the impact fees. This was due in part to the county's inability to control the administrative processes within the municipalities and the municipalities not having an automated process that would prohibit the issuance of a C.O. prior to the payment of fees. Over 1,870 properties did not pay the impact fees when due and had notices/liens filed against them in the Seminole County Public Records. It should be noted that staff spent a substantial amount of time monitoring payment, preparing the notice/lien papers, and dealing with pay-off information. A review of both the city's and county's permitting processes, relative to the collection of impact fees, indicate that many of the same problems exist. County staff will continue to work with each of the cities to improve the coordination of our processes. (In the year 2002, county staff processed the impact fees for 927 city permits.)

Survey of Impact Fee Funds:

A problem that could result from implementing a change in the timing of payment of impact fees to the time of the C.O., or pre-power or power, is the lag time from the time that the permit is issued until the time that the fees are paid. This means that the impact fee funds would not receive any revenue for approximately 6 months (average time for construction of a Single-family residence) or longer. Staff surveyed Public Safety, Library and Leisure Services, Public Works, the Deputy Superintendent of Operations for Schools and the Seminole Environmental Services Department to ensure that such a delay would not adversely impact capital programs. Survey results indicate that only the School/Educational fund would be negatively impacted due to the method of dispensing the funds collected.

Every quarter, the Seminole County Clerk's Office pays the School Board the school impact fees collected in conjunction with the residential building permits for the last three months. Since school impact fee revenues are down and not meeting projections, the loss of interest on revenues delayed for as much as six months would significantly impact this account. A solution is to continue collecting the school impact fee as a condition for the issuance of a building permit. (The school impact fee, since its inception, averages \$792,758.07 per quarter, a potential of over \$1.5 million over six months.) In addition, if the timing of payment for the collection of school impact fees was to be changed, the School Board, each municipality and the County would need to agree to amend the School Interlocal Agreement.

STAFF RECOMMENDATION:

Due to the problems encountered in the past when impact fees were collected at the time of the C.O., an evaluation of the County's automated system, work program and processes, staff recommends the following:

1. The Board of County Commissioners authorize Planning & Development staff to draft an amendment to the Land Development Code for the removal of the timing of payment of Impact Fees and allow the timing of fees and water & sewer connection fees to be addressed by BCC Resolution. This will allow the timing of payment to be altered without an amendment to the LDC, should it be decided at a future date that a different process would be more efficient. (The amount of each impact fee, commitment fee, and water and sewer connection fee will continue to be calculated and assessed prior to the issuance of a Building Permit.)
2. Staff recommends that the Resolution require payment of the Road, Fire/Rescue, and Library Impact Fees, (excluding School Impact Fee), developer commitment fees, and water and sewer fees as a condition for the issuance of pre-power or power for Seminole County Permits in the unincorporated area.
3. Once the LDC is amended and the Resolution adopted, staff will implement for a trial period of six months the collection of Road, Fire/Rescue, and Library Impact Fees (excluding School Impact Fee), developer commitment fees, and water and sewer fees as a condition for the issuance of per-power or power.
4. At the end of the six-month period, staff will report back to the BCC with an update.
5. Staff recommends that the assessment and payment of impact fees for permits issued within the municipalities remain as a condition for the issuance of a Building Permit. Staff will continue to work with the cities to improve the coordination of our impact fee processes.

If approved, staff anticipates adoption of the LDC amendment and implementation of the change for timing of impact fee payment to occur at the beginning of the next fiscal year, being October 1, 2003, and a progress report presented to the BCC, April 2004.