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April 30, 2007

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The Honorable Pete Hoffmann, Chairperson and
Members
Hawai'i County Council
333 Kilauea Avenue
Hilo, Hawai'i 96720

Re: Infrastructure and Public Facilities Needs Assessment: Impact Fee Study

Dear Chairman Hoffman and Members of the County Council:

Enclosed please find 10 copies of the Infrastructure and Public Facilities Needs Assessment: Impact Fee (IPFNA) Study and a DRAFT Ordinance for Impact Fees, dated September 2006. Please forward this to the Committee on Finance. Also enclosed in the binder are comments the Planning Department received from: the American Planning Association, Harold Murata, Paul Schwind, Dean Uchida, Robert M. Hunter, and Hawaii Island Community Development Corporation.

**PURPOSE OF STUDY AND DEFINITION OF IMPACT FEE**

The purpose of the IPFNA study was to develop a Needs Assessment, which is a statutory requirement and prerequisite to the adoption of an Impact Fee Ordinance for the County of Hawaii. The requirements of an IPFNA are described in the Hawaii enabling act, Hawaii Revised Statutes (HRS), Chapter §46-141 to 148. The study covered assessment fees for police, fire, parks, roads, sewers and solid waste. In accordance with HRS 46-142, impact fees for water were not included as the Board of Water Supply is the only authorizing body for the imposition of impact fees for water. Water commitment fees that are presently charged to new development can in fact be considered impact fees.

Impact fees are monies that are collected to help pay for infrastructure and public facilities that are needed to accommodate new development, or what is defined as capacity-enhancing projects. A fair and equitable impact fee program that is passed by ordinance would assess and collect impact fees as a one-time charge from everyone who develops a parcel of land. This could be a developer who secures a change of zone to develop a property, a subdivider who secures the rights to divide his parcel into two or more lots, or a property owner who decides to construct a dwelling on his property. It would not be assessed or collected from an

(NOTE: The "Infrastructure and Public Facilities Needs Assessment..." and the Draft ordinance are on file in the Office of the County Clerk.)

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existing development. That is, if someone has an existing dwelling, they would not be charged an impact fee.

Impact fees cannot be used to pay for manpower or to fix existing infrastructure or public facilities deficiencies. In other words, it cannot be used for hiring new personnel, or for maintenance or repair of existing infrastructure or facilities. Although an inclusive impact fee program would also include provisions for funding State infrastructure and public facilities such as schools and libraries, the scope of our IPFNA Study was to focus on county-owned infrastructure and public facilities. A separate enabling act would need to be passed authorizing the County of Hawaii to collect fees for a particular state agency.

If an Impact Fee Ordinance were to be adopted by the County of Hawaii, the existing fair share contributions assessed at the change of zone level would cease and be replaced by impact fees.

**BACKGROUND**

The County of Hawaii Planning Department contracted Helber, Hastert & Fee, Planners, Inc., to conduct an Infrastructure and Public Facilities Needs Assessment (IPFNA) Study and prepare a draft ordinance. Helber, Hastert & Fee subcontracted with Duncan Associates, impact fee experts from Austin, Texas, and Alice Moon and Co., a community and public relations firm from Hilo, Hawai'i, to achieve the project outcomes.

The County Council requested this study and provided the initial funding of $100,000 through fiscal year 2004-05 funds. Two amendments were made to the original contract to include public participation, with supplemental funding from the Planning Department of $61,000, increasing the total contract amount to $161,000. The project contract was executed on July 1, 2005 and completed on September 27, 2006. The project was completed within the 18-month time frame as required by the terms of the contract.

Copies of this study and other relevant information including public involvement can also be downloaded from the Planning Department Web site at:
http://www.co.hawaii.hi.us/planning/ipfna.htm.

**COUNTY ADMINISTRATION'S POSITION AND WHY**

As Mayor of the County of Hawaii, I recommend we do not proceed with an Impact Fee Ordinance for the County of Hawaii at this time. I have given considerable thought and have been in discussions with department heads on this in great detail (hence the delay in forwarding this document to you). It has been a difficult decision, given the fact that our island is faced with major infrastructure challenges and population growth evidenced by the increase in the number of building permits being approved over the last several years. It is difficult to respond with hesitation when there is a need and a possible solution is offered.

The following is an overview of the reasons why I recommend that we not proceed with the adoption of an Impact Fee Ordinance for the County of Hawaii:

1. **Affordability and affordable housing concerns**

   The Potential Impact Fee Summary shown in Table 1 on page 4 of the study includes calculations for single-family, multi-family, commercial, industrial and other land uses. Based on the consultants' assessment and collection of data from the applicable agencies, the maximum fees that can be assessed and collected for a single family residence (flat rate) is $16,557. Although we are not required to charge this amount and would actually charge less based on an infusion of revenues from other sources, including bonds, grants etc., impact fees could have an effect on affordable housing. To address the affordability issues, fees could always be lowered.

   A fair and equitable impact fee program would assess and collect fees from every developer without excluding a specific income bracket. Therefore we could not exclude a specific class of developers because of affordability without being legally challenged. The fundamental principle of impact fees is that everyone pays their fair share for the cost of new infrastructure and facilities. In other words, growth pays for the impact it creates.

2. **A comprehensive infrastructure financing plan is fundamental for the successful implementation of a County-wide Impact Fee Ordinance.**

   A comprehensive infrastructure financing plan should first be in place to ensure that an impact fee program is successfully implemented and that monies collected can be expended or encumbered within the required six years as required by State law.

   We do not have a comprehensive infrastructure financing plan in place. We could begin by reviewing our current capital projects (CIP) budget and begin to include and identify all possible financing options for a project as part of the CIP budget. Unless we identify how impact fees or other sources of financing can be integrated in the CIP, we may risk the failure to spend the impact fees within six years and further delay the planning and construction of needed services in a timely manner. Although our current CIP budget does include impact fee qualifying projects (new), there are also a large number non-qualifying maintenance and repair projects. We will need to clearly identify and distinguish between capacity-enhancing projects and repairs and maintenance.

   The need for a comprehensive infrastructure financing plan was also a reoccurring comment from the public meetings that were held during the study process. It is recognized that impact fees are not a panacea for our infrastructure problems, and that other sources of funding need to be in place to ensure completion of projects as well as to meet the needs of deficiencies that cannot be covered by impact fees.

The administration and County Council are exploring the concept of community facilities districts (CFDs) as another funding tool for new public infrastructure, more specifically roads in Waikoloa among other projects. In addition, the use of property tax revenue is another alternative in two ways. First, tax revenues could be used to directly fund infrastructure, and second, the revenue increases the County's ability to leverage and to sell general obligation bonds which can then be used for infrastructure.

3. **Communities where there are major infrastructure and public facility deficiencies may not see immediate benefit from impact fees.**

One of the districts with the most severe infrastructure deficiencies is Puna, where there are many private substandard subdivisions with private roads and minimum public facilities. In Puna, most arterial and collector roads are state or private. Because impact fees would be imposed on existing lots, persons obtaining a building permit to construct a home on a lot in a substandard subdivision would pay the impact fee. However, since impact fees can only be used for County projects and cannot be used to improve the level of standard or services for private substandard subdivisions where there are private roads and where no public facilities exist, there will be minimal benefits to residents in Puna from the payment of these fees.

Although an impact fee program could be implemented in some districts where benefits would be visible, districts such as Puna (above) and Ka'ū, where there are a number of private substandard subdivisions with private roads and minimum public facilities, would not see immediate benefit from impact fees.

4. **Need for additional personnel**

Finally, we all recognize the overarching need for personnel to move the planning and construction of projects to fruition. We will need to make the commitment to add staff positions for project managers who can a) manage and oversee projects, b) search for and secure supplemental funding sources for their projects, c) encumber and spend the monies we receive in the required timeframe, whether they be impact fees and other funding sources, and d) carry projects to completion in accordance with our contracts.

## THE IPFNA STUDY AS A TOOL IN COUNTY COUNCIL'S DECISION MAKING PROCESS

The IPFNA Study is divided into three major sections:

- Part I is the policy analysis where there is discussion on the key policy issues (page 15) and the maximum fees chargeable. These issues need to be addressed and agreed upon to tailor an ordinance to local needs, including the decision on how much to assess and collect.

- Part II includes the rationale for how the fees were calculated for police, fire, roads, sewer and solid waste.
- Part III is the appendix, which includes references such as the State law, definitions, frequently asked questions, and results of the public workshops, which can be very helpful in furthering understanding of impact fees.

Should the Council decide to proceed with an Impact Fee Ordinance for the County or possibly model a program for an individual district or community, consideration should be given to the costs for developing a 'localized' ordinance and administrating the program, including creating a collection process. Current administrative procedures need to be retooled and additional staff would be required to ensure the objectives of the new program are achieved.

I am reminded, after rereading the section on *Lessons Learned* (page 27) and *Next Steps/Implementation* (page 29) that the following overarching theme permeated aspects of the public discussion during this project: "…impact fees alone will not solve our infrastructure problems; they are only one source for partial financing of new infrastructure and public facilities. Impact fees need to be looked at as a solution in perspective with all financing options, which need to be identified and implemented by decision-makers and agencies…a more extensive and comprehensive discussion of funding options for new infrastructure and public facilities should take place, with the consideration of impact fees in the context of other financing tools."

Should you have any questions regarding this project, please contact Chris Yuen, Planning Director at 961-8288 ext. 200.

Aloha,

Harry Kim

Harry Kim
MAYOR

Enclosure: 10 copies - Infrastructure and Public Facilities Needs Assessment: Impact Fee Study and a DRAFT Ordinance for Impact Fees, dated January 2006

cc: Scott Ezer, Helber Hastert & Fee, Planners, Inc.
Clancy Mullen and Jim Duncan, Duncan Associates
Alice Moon, Alice Moon and Company
Dixie Kaetsu, Mayor's Office
Christopher Yuen, Planning Department
Susan Gagorik, Planning Department
Roy Takemoto, Mayor's Office

Casey Jarman, County Clerk
Bill Takaba, Finance Department
Pat Engelhard, Department of Parks and Recreation
Chief Lawrence Mahuna, Police Department
Chief Darryl Oliveira, Fire Department
Bruce McClure, Department of Public Works
Bobby Jean Leithead-Todd, Department of Environmental Management
Hawaii County Planning Commission