

**Infrastructure and Public Facilities Needs Assessment (IPFNA)
Project
Video Conference Workshop - Tuesday, January 17, 2006**

QUESTIONS AND ANSWERS

Questions Answered at Video Conference:

1. Q: How often does one governmental jurisdiction collect fees for another? And are there any pitfalls or better ways you might suggest for doing this. Background for Hawaii would be if Hawaii County were to collect fees for State of Hawaii facilities.

A: At present, the State enabling legislation does not provide for Counties to collect fees for State projects. Typically, throughout the United States, school fees are collected by cities and counties for individual school districts. In Hawaii, the State functions as the school district. We understand the State is working toward a uniform school impact fee that would affect new projects. It is probable that an amendment will be necessary to the State statute to permit County collection of fees for State road projects (at the beginning of the meeting, Planning Director Chris Yuen announced that the County has submitted a bill to accomplish such an amendment).

2. Q: I hear the problem of impacts on existing services clearly addressed. However, how is the impact of increased tax revenue resulting from new development taken into account?

A: The collection of property tax revenue by the County does not ensure the construction of infrastructure to keep pace with development, or even to provide adequate infrastructure in the long term. This can be seen on the Big Island. Other taxes and fees can be/are required to be spent on specific types of projects (such as the gas tax.). The need to spend targeted dollars on new infrastructure is a major determinant in the need for an impact fee.

Case law requires taxes and fees paid for some capital facilities be deducted as credit against impact fees. For example, monies collected for new road construction via gas taxes would be credited against impact fees collected for construction of new roads.

3. Q: How can allowing one dwelling per lot be legal? Financing speculators? How can citizens support the adoption of impact fees? For example, how can we help get the mayor's bill passed? How can we get a copy of your PowerPoint for posting on waimeanplan.org?

A: The issue related to the exemption of a certain class of property owners from the requirement of paying an impact fee is not resolved, and is being reviewed by the County Corporation Counsel. The issue relates to established legal precedents that require that the imposition of impact fees be equitable. There are other options available to exempting certain classes of property owners, such as offering a grace period (such as a year or other time period) for all parcels that exist at the time of the adoption of the impact fee ordinance to come in and get a building permit for that parcel.

Citizens will be able to testify in support of a bill that adopts an impact fee, when public hearings are held at the Planning Commission and County Council. The PowerPoint presentation will be posted on the Planning Department's website through a link on the homepage at www.co.hawaii.hi.us/planning/ipfna.htm.

4. Q: To what extent are the various facilities to be proportionately funded by the impact fees, planned with the funding by the county in place? (Are we looking at additional funding sources? – am notes)

A: We recognize that the full cost of funding future infrastructure needs cannot come from impact fees. Impact fees can only be assessed to achieve existing levels of service within the County. Other funding will have to come from other sources. Impact fees will offer the County another tool for funding.. This project will identify the maximum impact fee that the County can assess, and the actual impact fee could be less.

5. Q: Ocean View has over 8,000 lots. If no impact fee is charged for existing lots, how will the county provide infrastructure if these lots are built?

A: We have to draw a distinction between on-site and off-site infrastructure. On-site infrastructure includes such things as internal subdivision roads. On-site improvements cannot be paid for with collected impact fees.

6. Q: (As written) What are the specific drawbacks of having two assessment districts corresponding to the two benefit districts- seems to be discrepancy in existing lots between East and West districts, which would be better reflected into assessment districts.

A: The consideration of existing lots does not necessarily skew data within a single benefit district at the expense of that district, or in its favor. Assessment is based on island-wide level of service of regional facilities. The benefit of having

an island-wide assessment district is that it evens out the assessment value, and there are no gross inequities in its application.

7. Q: Any better basis from other jurisdiction for basing fees on square footage? Formula based on data collection from one date- Oct. 19, 2005 (peak of boom in market) other jurisdictions justified seems shaky. How have square footage basis for fee?

A: Impact fees based on unit size is an accepted methodology of fee assessment, and has been used by other jurisdictions. Data collection is based on historic data prior to October 19, 2005 going back several years.

8. Q: How can HI County support position of fees being allocated to state DOE for provision of necessary schools to support new development?

A: The County is not authorized to assess fees for State projects (including schools). If the DOE adopts its own impact fee system for schools, it is unclear at this point how that would be administered.

9. Q: Are projected impact fees going to be comparable to existing fair share assessment of roughly \$10,000/unit? This would seem to be a key factor in deciding how to deal with existing lots-any way to exempt only those lots currently owned by Hawaii Island residents?

A: At this time, it would be premature to make any comparisons between fair share assessments and possible impact fee assessments. This information will be developed in the next phase of the project.

10. Q: What are you projecting for per unit fee?

A: We have not yet calculated proposed impact fees. That will happen in the next phase of the project, after we analyze data we are collecting from a number of County agencies.

11. Q: Any major drawbacks to two separate assessment districts and two benefit districts?

A: It is more complicated to calculate multiple assessment districts, and we are not recommending this. At this time, we are trying to keep the methodology simple.

12. Q: Said impact fee may only be used for CIP. Is it legal to use impact fee for repair and maintenance especially designed to reduce long-term capital costs?

A: No, this would be legally dangerous even if used for preventative means. The Enabling Act is clear. Architecture and design costs are allowed, but not maintenance.

13. Q: If I live in Puna (subdivisions) and pay an impact fee- how and where does the money for water and sewers get spent? Am I likely to see this as fair?

A: Impact fees will only apply if the property is connected to service. If not connected, you do not pay. The Department of water charges a separate connection fee at the time of building permit, so water is not being considered as part of this project. In regards to wastewater, very little of the County is actually on a County system. Only those communities that are already hooked up to or are adjacent to existing service would be considered for a sewer impact fee.

14. Q: From slides: What does “Credit for past property taxes” mean?

A: There is a provision in the Enabling Act that requires that payment of past taxes be credited toward the payment of impact fees. The Act says we must look back 5 years, and in this case that would only involve the property tax. In this case, this would probably offer only a small credit, as the overall percentage of property taxes that were spent on qualifying infrastructure would be small.

15. Q: Will impact fees cover only roads or include fire, police, schools, and parks?

A: Yes, fire, police, and parks will be included in this project. Schools are a statewide function, and cannot be covered by the County. The Department of Education is currently looking into an impact fee-type assessment.

16. Q: Resort development buyers tend to have lower impact than full time residences, yet recommended progressive fee would burden resorts more by virtue of having a higher cost on average.

A: A progressive rate is based on the size of a unit, not cost. Fees are intended to be based on the occupancy (numbers) of a unit. Resorts during peak periods have a higher impact on roads, police, and fire.

17. Q: (As written): If Impact Fees are not collected from folks building on their older subdivision lots, does this mean that the impact fees will not be funneled back to these subdivisions: i.e. parks? In some of the older subdivisions residents are concerned about the many improvements being made in their communities. They are concerned about lifestyle, community environment impacts. From your experience have communities had a say on how fees are used?

Q: (As asked): If impact fees are not collected from older subdivisions, does this mean that older subdivisions won't benefit?

A: Funds received from a district are used within that district. If an area has lots of vacant lots, little revenue is generated for parks. You pay, you benefit. You don't pay, you don't benefit.

18. Q: Are there any tales of remorse due to impact fees?

A: Few and far between. Only one of our (Duncan Associates) clients has done so, and that was due to an economic downturn. When the economy picked back up and growth resumed, the fees were reinstated.

19. Q: Could the County collect impact fees for state highways without a change in the state enabling legislation, extending the provisions of the state enabling act to the neighboring islands?

A: As discussed previously, this is a legal question, and we believe the counties cannot collect impact fees for State road projects without a change in state law. A bill has been introduced to the legislature by the County to change the state law for this purpose.

**20. Q: 1. How would existing fair share assessment credits be handled?
2. Is there any consideration for collapsing State and County impact fees?**

A: If fair share assessments have already been paid, credits would be applied to new development. It is conceivable that "fair share" payments could completely cover the impact fees of new development.

21. Q: Do fees go into a specific account- not a general fund, and who decides where, when and how funds are used?

A: To question #1, absolutely. To the other questions, the County Council decides.

22. Q: If you have one county wide-assessment district are you coming up with an average county-wide cost of all the improvements necessary to maintain L.O.S. for projected population (?) growth? Then money collected may only be used in one of the 2 or more benefit districts where they are collected. So each benefit district pays and receives the county average?

A: County wide assessment districts will be based on average costs. Money collected in East and West benefits districts must be spent in the respective benefit district.

23. Q: (As written): Is there any intention to use impact fees in districts where they are raised? Otherwise there will be a tendency to spend money from under privileged districts like Ka'u in the more favored districts. (As asked): What about North and South? Will IF money coming out of South be spent in South?

A: Impact fees are intended to be spent in the benefit districts they are collected from. It is conceivable that monies collected in Ka`u could be spent elsewhere in the benefit district. But there would have to be some rational basis for spending in that manner, such as that the project will affect the larger region. This will be discussed further into the project as we get a better idea of how benefit districts might be identified.

24. Q: (As written): Many, perhaps the majority of undeveloped existing lots are in non-conforming subdivisions where little or no county services are provided within the subdivision. If lots in non-conforming subdivisions are required to pay the same impact fees as lots in subdivisions with full-developed public infrastructure, wouldn't that violate the rational nexus standard?

(As asked/recorded by am): I have questions on non-conforming lots with no County services. Will they be assessed?

A: Impact Fees will not address services within the subdivision boundaries of non-conforming lots. These are considered "internal" or "on-site" infrastructure. Only infrastructure that is of more general benefit will be funded by impact fees. The question of whether and how to address these non-conforming lots will be an important topic of future discussion.

Unanswered Questions:

25. Q: Does the “grace period” apply only to existing owners? Or also new owners? One-time? Spec houses? Residences?

A: At the present time, consideration is being given to lots that would exist at the effective date of the bill adopting the impact fee.

26. Q: If HPP lot owners don't pay a sewer fee, how will they even get this service?

A: This is a good question, and relates to the long-term capital improvement plans of the County. It would be difficult, if not impossible, for the County to assess an impact fee for a service it does not contemplate implementing within the lifetime of a capital improvements plan. There has to be a commitment on the part of the County to provide the service before a fee can be assessed.

27. Q: Currently, only limited areas within the county are serviced by public sewer. Would impact fees be discounted for areas not serviced or planned for future extension of sewer service? If not, how would fees be distributed?

A: Impact fees will be calculated for a number of different services, and assessed specifically for those services. If development occurs in an area outside the service area for a certain service, then that particular impact fee will not be assessed.

28. Q: How would the impact fees affect builders in Non-residential pre-existing subdivisions? OR: would it apply? What would residential builders be charged to build a home on agriculture land?

A: At this time, we believe all new non-residential development would be assessed for impact fees, most likely at the time of building permit. A single-family dwelling would be assessed the same basic impact fee, regardless of zoning.

29. Q: How are impact fees administered, i.e. are there provisions/mechanisms to ‘waive fees’? Like the problem with fair share fees. How can we keep good old boy politics out?)

A: Procedures for administration should be clarified by ordinance, as part of the bill. It should be very straight-forward to assess and keep track of assessments and collections.

30. Q: Concern that mainland consultants were hired who are not familiar with our local communities.

A: The consultants hired by the County include a planning firm from Austin, Texas (Duncan Associates) who have a long and impressive history working with local governments all over the United States to establish fair and reasonable impact fee systems. They are working with a planning firm from Honolulu that is long-established in Hawaii, who have a good sense of “local” planning issues. Guidance from County agency officials (including the Planning Department) provide additional assurance that local issues and sensitivities are included as part of the work process and product.

31. Q: Your calculation of size to impact only works in a normal range (i.e. 1000 to 3000 sq. ft) The range in house sizes is much larger (i.e. 500-24,000+) Across this range the correlation does not hold. How do you handle this? Are you concerned that collecting @ subdivision will reduce supply by increasing costs & risks?

A: It is true that the correlation between unit size and number of residents tends to stabilize at the upper end of the typical range (about 4,000 square feet), and we generally cap the fees so that they do not continue to increase for very large homes.

We assume that your suggestion implies that developers would not want to process subdivision requests because of the added cost related to impact fees, and therefore, the number of new developable lots would not continue. We have found this not to be the case across the United States. Because the process establishes higher predictability and certainty to the development process, there is actually more interest in development than less, because the developer knows exactly what costs will be.

32. Q: Re: Needs assessment / Wa’a Wa’a Subdivision

- a. due to the growth in our Pahoia community, the govt. beach road needs “quarterly maintenance” to keep it in better condition to allow EMT/fire access
- b. closer proximity of fire station (current volunteer truck is Wa’a Wa’a)

- c. **ATV's being driven (noise, safety, and speeding) through neighborhoods INCREASE POLICE PATROL.**
- d. **County to take over maintaining 'dedicated to county' Park-Kahaki Park- Add lavatories or portables.**

A: With respect to these specific needs, impact fees cannot pay for on-going maintenance, or salaries. They can be used for new facilities (restrooms, police stations, fire stations).

33. Q: The “drill deep” population of Ka’u district is estimated as 16,000 vs. the <6,000 of the 2000 census. Will any attempt be made to assess needs on realistic population estimates? Note also that as East/West divisions of Hawaii Island compounds the neglect of South and North.

A: The calculations made for this project must be based on methodology accepted by decision-makers. In terms of population, Census data is the data used. We will take into consideration the need for additional benefit districts as the study progresses.

34. Q: Impact fees should be one of many tools we explore for infrastructure financing.

A: This is a requirement of the State Enabling Act, and will be an integral part of the assumptions used for this project.

35. Q: Clarification on credit for past property tax payments. How does that work?

A: These numbers will be calculated based on past property tax collections, and the percent of county expenditures spent for impact fee-eligible capital improvements.

36. Q: Progressive rates for residential units. Concerned over legality (more of a fee/tax) and fairness issues.

A: Other jurisdictions have used a similar approach with single-family dwellings. Assessment is based on degree of impact, and larger homes tend to have greater impacts based on average number of occupants.

37. Q: Legality issues on calculating impact fees county wide and benefit issues

A: The jurisdiction must be able to demonstrate the reasonableness of a county-wide assessment value. It has been used in many other jurisdictions.

38. Q: Concern over the ability and commitment to implement and administer.

A: The administration of an impact fee system is not complex. There is an existing system of “fair share” assessments that the County has administered for several years, so it should not be a radical change in operating procedures.

39. Q: Issue of county impact fees being able to fund state road projects.

A: An amendment to state law will be required to implement such actions.

40. Q: Would impact fees be divided between West Hawaii and East Hawaii and if so, would these fees be divided into “pots” of money for roads, parks, schools, other infrastructure and NOT be placed into the General fund?

A: Yes, impact fees collected in specific benefit districts must be spent in those benefit districts for projects for which they have been collected (i.e., roads, parks, police, fire, solid waste, sewer). Collected fees will be placed in funds specific to their use.

41. Q: I am the water commissioner from North Kona. Cooperation we receive from State Highway Department is almost non-existent. Can adoption of impact fees improve this situation? Our greatest problem is use by the country of state road rights-of-way.

A: Unfortunately, an impact fee program cannot influence the use of State facilities (including rights-of-way).

42. Q: Ocean View might have the highest number of undeveloped lots- however, Ocean View has already developed its own fire department, road maintenance independent of county funds through community organization, grants and road maintenance fees. How will the fees be levied on those subdivisions that have taken infrastructure step independent of country?

A: In terms of the internal roadways that service the subdivision, these facilities cannot receive fees collected from the impact fee program because they only

service the subdivision. Impact fees are collected for facilities that have regional impact or beyond.

In terms of the fire station, if the County decides it needs to build a regional fire station, it is possible that new development could be assessed impact fees to help pay for the new facility. It is possible that credit could be given for funds spent by residents on its “private” station.

43. Q: Is it the intention that the fees collected be ear marked for expenditure on the facilities that comprise the fee? For example, if \$1 of the fee was for road “A”, does that \$1 do to a fund to pay for road “A” only?

A: No, the fees will not be earmarked for specific projects, but for generalized categories (roads, parks, etc.)

44. Q: Can fee be used for facilities such as one stop community center for services to families and children?

A: If the community center can be considered under any of the categories proposed for impact fee collection (e.g., parks), construction of a new center could be paid for with impact fees. Operation of the center cannot be paid for with impact fees.

45. Q: New infrastructure; what is the percentage in cost to be covered by the impact fee, and what the percentage in cost to be covered by the county funding (i.e. real property taxes?)

A: This is a policy issue for the County. The impact fees will be calculated at the level needed to maintain the existing level of service that has been fully paid for by existing development. This level of service is likely to be much lower than the County’s desired level of service. To achieve the desired level of service, other funding sources will be needed.

46. Q: If the impact fee is applied to a lot in Puna is it “fair” if these fees are used for roads, parks, police, fire, solid waste in another community within the benefit area?

A: The use of collected impact fees would be intended to serve most directly the area in which it was collected. It is logical to assume that fees collected for a regional-level service provider could be located outside of some of the individual communities within the region.

47. Q: The consultant recommends two possible benefit districts- East and West Hawaii. They also recommend that impact fees be calculated countywide, based on countywide costs and levels of service. Is there a difference in current costs and levels of service between East and West Hawai`i? Is it material?

A: The project methodology calls for calculating an over-all County-wide level of service, and it is not intended that other separate calculations be made for East and West Hawaii. It is possible that there are some cost and level of service differences between East and West Hawaii, but the same could be said of any geographic breakdown.