

**Lee County Board Of County Commissioners
Agenda Item Summary**

Blue Sheet No. 20130107

1. ACTION REQUESTED/PURPOSE:

Conduct public hearing to adopt an ordinance suspending the collection of Impact Fees for two years and also amending Chapter 2, Article VI, of the Land Development Code (LDC) pertaining to Impact Fees.

2. FUNDING SOURCE:

N/A

3. WHAT ACTION ACCOMPLISHES:

Allows for Board discussion and public input on the proposed ordinance.

4. MANAGEMENT RECOMMENDATION: Seeking Board direction.

5. Departmental Category: 9:30 PH3

6. Meeting Date: 2/12/2013

7. Agenda:

Public

8. Requirement/Purpose: (specify)

- ☒ Statute 125.66(2)
☐ Ordinance
☐ Admin Code
☐ Other

9. Request Initiated

Commissioner:

Department: COUNTY ATTORNEY

Division: No Divisions

By: Donna-Marie Collins

10. Background:

On January 22, 2013 the Board directed to public hearing, an ordinance suspending the collection of impact fees for a period of two years.

The attached ordinance contains the following provisions:

- (1) Suspends the collection of Road, Park, School, Fire and EMS Impact Fees for two years commencing on February 13, 2013 and terminating on February 13, 2015.
- (2) Clarifies the policy on refunds of fees paid.
- (3) Extends the duration of existing impact fee credits by two years (LDC).
- (4) Requires County Administration to update the Board on various economic indicators, including employment, taxable sales, and development permitting activity at the end of the first year of the suspension period.

The LPA found the proposed suspension inconsistent with the Lee Plan unless the Board directs its administrative staff to replace impact fee revenues for transportation, parks, and EMS with revenues from another source. Further, that the Board discuss the reduction of school and fire impact fees with the School Board and Fire Districts so that the School Board and Fire Districts can clarify the continued need for impact fees at the current or reduced level.

Attachments:

1. Draft Ordinance
2. FAIS Form

11. Required Review:

<i>Andrea Fraser</i>	<i>Tricia Jackson</i>	<i>David Harris</i>	<i>Peter Winton</i>		
COUNTY ATTORNEY	Budget Analyst	Budget Services	County Manager		

12. Commission Action:

ORDINANCE NO. 13-_____

AN ORDINANCE PERTAINING TO IMPACT FEES IN LEE COUNTY, AND ALSO AMENDING THE LEE COUNTY LAND DEVELOPMENT CODE, CHAPTER 2; ARTICLE VI, IMPACT FEES, DIVISION 2, ROADS IMPACT FEES; DIVISION 3, REGIONAL PARKS IMPACT FEE; DIVISION 4, COMMUNITY PARKS IMPACT FEE; DIVISION 5, FIRE PROTECTION AND EMERGENCY MEDICAL SERVICES IMPACT FEE; AND, DIVISION 6, SCHOOL IMPACT FEES. THE AMENDMENTS SUSPEND THE COLLECTION IMPACT FEES FOR TWO YEARS, CLARIFIES THE POLICY ON REFUNDS OF FEES PAID, EXTENDS THE DURATION OF EXISTING IMPACT FEE CREDITS BY TWO YEARS AND REQUIRES COUNTY ADMINISTRATION TO UPDATE THE BOARD ON DEVELOPMENT PERMITTING ACTIVITY AT THE END OF THE FIRST YEAR OF THE SUSPENSION PERIOD; AS TO THE SUSPENSION OF SCHOOL IMPACT FEES ON RESIDENTIAL DEVELOPMENT, THE ORDINANCE IS APPLICABLE WITHIN THE INCORPORATED AND UNINCORPORATED AREAS OF LEE COUNTY

WHEREAS, Florida Statutes Section 125.01(1)(t) authorizes counties to adopt ordinances necessary for the exercise of its powers; and,

WHEREAS, the Board of County Commissioners (Board) adopted the Lee County Land Development Code containing regulations applicable to land development in Lee County; and,

WHEREAS, the recent economic downturn has resulted in an unprecedented decline in new residential and commercial building construction activity in Lee County; and,

WHEREAS, in recognition of the downturn in the U.S. economy, the Board has implemented measures to provide temporary relief to the building and construction industry; and,

WHEREAS, the Board desires to temporarily suspend the collection of development impact fees in an effort to stimulate economic development and the pursuit of construction activity; and,

WHEREAS, the Board has determined that a two-year suspension of the collection of Road, Community Parks, Regional Parks, Fire, EMS, and School impact fees will further the desired purpose of stimulating economic development in Lee County; and,

WHEREAS, the Board desires an update from County Administration on development permitting activity after the first year of the suspension to gauge the effect of the suspension; and

WHEREAS, the Local Planning Agency (LPA) reviewed the proposed amendments on January 28, 2013, and found the temporary suspension of impact fees to be inconsistent with the Lee Plan unless the suspension includes direction to administrative staff to replace impact fee revenue from other sources. Further, the LPA recommended that the Board

pursue discussions with the School Board and Fire Districts to determine whether those impact fees can be reduced.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA:

SECTION ONE: SUSPENSION OF FEES IN THE UNINCORPORATED AREAS OF THE COUNTY

The collection of impact fees set forth in Chapter 2 of the Land Development Code are suspended for a two-year period, commencing on, Wednesday, February 13, 2013 and ending on Friday, February 13, 2015, without further action by the Board.

SECTION TWO: SUSPENSION OF SCHOOL IMPACT FEES COUNTYWIDE

The collection of school impact fees set forth in Chapter 2 of the Land Development Code are suspended countywide for a two-year period, commencing on, Wednesday, February 13, 2013 and ending on Friday, February 13, 2015, without further action by the Board.

SECTION THREE: REFUNDS

Refunds of impact fees paid prior to February 13, 2013 will be issued only in accordance with Chapter 2 of the Land Development Code.

SECTION FOUR: REPORT ON PERMITTING ACTIVITY

County Administration will collect data during the two year suspension and will update the Board on various economic indicators, including, but not limited to, employment, taxable sales, and permitting activity at the end of the first year of the suspension period.

SECTION FIVE: AMENDMENT TO LDC CHAPTER 2- ADMINISTRATION

Lee County Land Development Code Chapter 2 is amended as follows with strike through identifying deleted text and underline identifying new text.

CHAPTER 2 ADMINISTRATION

ARTICLE VI. IMPACT FEES DIVISION 2. ROADS IMPACT FEE

Sec. 2-275. Credits.

(a)(1) through (a)(4) remain unchanged.

- (5) Transferability. Roads impact fee credits created on or after October 1, 1989 must be in transferable form and may be sold, assigned or conveyed as set forth in the County Administrative Code. Credits may be used to pay or offset

roads impact fees in the same roads impact fee district in which they are earned, or in other districts directly benefitted by the capital improvements for which the credits were granted, and consistent with any interlocal agreements made with participating municipalities. Credits may not be used outside the district earned unless the proposed use is found to be in compliance with this division by the County Attorney and the director of the County Department of Transportation. Unless a longer period is specifically authorized by the Board of County Commissioners, transferable credits must be used within 20 years of the date created. The creation date is the date the instruments conveying legal title to the land or improvements given in exchange for credits were recorded in the County's official record book. The creation date for credits pursuant to prepayment of fees under section 2-272 will be the date the prepayment is received by the County.

Roads impact fees credits will be increased at the time they are used, in the same percentage that the Consumer Price Index—All Urban Consumers (CPI-U), All Items, U.S. City Average maintained by the Bureau of Labor Statistics increased between the time the credits are used and the time the credits were created. Credits not used within 20 years of issue will expire.

Impact fees credits issued or recognized by the County that are outstanding on February 12, 2013 will be extended for a period of two years in recognition of the two-year suspension on the collection of impact fees adopted by the Board by Ordinance 13- .

Any person who accepts credits in exchange for the dedication of land or improvements does so subject to the provisions and restrictions of this division.

Remaining sections unchanged.

ARTICLE VI. IMPACT FEES

DIVISION 3. REGIONAL PARKS IMPACT FEE

Sec. 2-312. Exemptions and Credits.

Subsection (a) remains unchanged.

(b) Credits are subject to the following:

(b)(1) through (b)(5) remain unchanged.

(6) Regional parks impact fee credits created on or after October 1, 1989, must be in transferable form and may be sold, assigned or otherwise conveyed as set forth in the county Administrative Code. They may be used to pay or otherwise offset regional parks impact fees required by this division, consistent with any interlocal agreements

made with participating municipalities. Unless a longer period is specifically authorized by the Board of County Commissioners, such transferable credits must be used within twenty (20) years of the date they are created, which date is the date the instruments conveying legal title to the land or improvements, which were given in exchange for credits, were recorded in the county's official record book. Regional parks impact fee credits will be increased at the time they are used in the same percentage that the Consumer Price Index—All Urban Consumers (CPI-U), All Items, U.S. City Average maintained by the Bureau of Labor Statistics increased between the time the credits are used and the time the credits were created. Credits will expire after twenty (20) years. Any person who accepts credits in exchange for the dedication of land or improvements does so subject to the of this division.

Impact fees credits issued or recognized by the County that are outstanding on February 12, 2013 will be extended for a period of two years in recognition of the two-year suspension on the collection of impact fees adopted by the Board by Ordinance 13-_____.

The remainder of Section 2-312 remains unchanged.

ARTICLE VI. IMPACT FEES

DIVISION 4. COMMUNITY PARKS IMPACT FEE

Sec. 2-352. Exemptions and credits

Subsection (a) remains unchanged.

(b) Credits are subject to the following:

(b)(1) through (b)(5) remain unchanged.

- (6) Community parks impact fee credits created on or after October 1, 1989, must be in transferable form and may be sold, assigned or otherwise conveyed as set forth in the county Administrative Code. They may be used to pay or otherwise offset community parks impact fees required by this division, so long as the credits are used in the same community parks impact fee benefit district in which they are earned, consistent with any interlocal agreements made with participating municipalities. Unless a longer period is specifically authorized by the Board of County Commissioners, transferable credits must be used within twenty (20) years of the date they are created, which date is the date the instruments conveying legal title to the land or improvements that were given in exchange for credits were recorded in the county's official record book.

Community parks impact fee credits will be increased at the time they are used in the same percentage that the Consumer Price Index—All Urban Consumers (CPI-U), All Items, U.S. City Average maintained by the Bureau of Labor Statistics increased between the time the credits are used and the time the

credits were created. Credits not used will expire within 20 years. Any person who accepts credits in exchange for the dedication of land or improvements does so subject to the provisions and restrictions of this division.

Impact fees credits issued or recognized by the County that are outstanding on February 12, 2013 will be extended for a period of two years in recognition of the two-year suspension on the collection of impact fees adopted by the Board by Ordinance 13- .

The remainder of Section 2-352 remains unchanged.

**ARTICLE VI. IMPACT FEES
DIVISION 5. FIRE PROTECTION AND EMERGENCY
MEDICAL SERVICES IMPACT FEE**

Sec. 2-395. Credits.

(a)(1) through (a)(3) remain unchanged.

- (4) Transferability. Fire or EMS impact fees created on or after October 1, 1989 must be in transferable form and may be sold, assigned or conveyed as set forth in the county Administrative Code. Credits may be used to pay or offset the fire or EMS impact fees in the same fire or EMS impact fee district in which they are earned, consistent with the interlocal agreements made with participating fire districts and municipalities. Unless a longer period is specifically authorized by the Board of County Commissioners, transferable credits must be used within twenty (20) years of the date created. The creation date is the date the instrument conveying legal title to the land or improvements given in exchange for credits were recorded in the county's official record books.

Impact fees credits issued or recognized by the County that are outstanding on February 12, 2013 will be extended for a period of two years in recognition of the two-year suspension on the collection of impact fees adopted by the Board by Ordinance 13- .

Fire or EMS impact fee credits will be increased at the time they are used, in the same percentage that the Consumer Price Index—All Urban Consumers (CPI-U), All Items, U.S. City Average maintained by the Bureau of Labor Statistics increased between the time the credits are used and the time the credits were created. Credits not used within twenty (20) years of issue will expire.

Any person who accepts credits in exchange for the dedication of land or improvements does so subject to the provisions and restrictions of this division.

The remainder of Section 2-395 remains unchanged.

ARTICLE VI. IMPACT FEES DIVISION 6.SCHOOL IMPACT FEE

Sec. 2-413. Credits.

Subsections (a) through (b) remain unchanged.

(c) Transferability. School impact fee credits are transferable.

- (1) Credits may be used to pay or offset school impact fees anywhere in the county or any municipality. However, the county manager and the county attorney must first determine that the improvement for which the credits were issued is a direct benefit to the development where the credits are sought to be used.
- (2) Transferable credits must be used within twenty (20) years of the date created.
- (3) School impact fees will be increased at the time they are used in the same percentage that the Consumer Price Index—All Urban Consumers (CPI-U), All Items, U.S. City Average maintained by the Bureau of Labor Statistics increased between the time the credits are used and the time the credits were created. Credits not used within twenty (20) years will be canceled by the building official. Any person who accepts credits in exchange for the dedication of land or improvements does so subject to the of this division.

Impact fees credits issued or recognized by the County that are outstanding on February 12, 2013 will be extended for a period of two years in recognition of the two-year suspension on the collection of impact fees adopted by the Board by Ordinance 13- .

The remainder of Section 2-413 remains unchanged.

SECTION SIX: CONFLICTS OF LAW

Whenever the requirements or provisions of this Ordinance are in conflict with the requirements or provisions of any other lawfully adopted ordinance or statute, the most restrictive requirements will apply.

SECTION SEVEN: SEVERABILITY

It is the Board's intent that if any provision of this ordinance is deemed invalid or unconstitutional by a court of competent jurisdiction, such portion will become a separate provision and will not affect the remaining provisions of this ordinance. The Board further

declares that this ordinance would have been adopted if such unconstitutional provision was not included.

SECTION EIGHT: CODIFICATION AND SCRIVENER'S ERRORS

The Board of County Commissioners intend that this ordinance will be made part of the Lee County Code; and that sections of this ordinance can be renumbered or relettered and that the word "ordinance" can be changed to "section", "article" or some other appropriate word or phrase to accomplish codification, and regardless of whether this ordinance is ever codified, the ordinance can be renumbered or relettered and typographical errors that do not affect the intent can be corrected with the authorization of the County Administrator, County Manager or his designee, without the need for a public hearing.

SECTION NINE: EFFECTIVE DATE

This ordinance will take effect upon its filing with the Office of the Secretary of the Florida Department of State.

Commissioner _____ made a motion to adopt the foregoing ordinance. The motion was seconded by Commissioner _____. The vote was as follows:

John E. Manning	_____
Cecil L Pendergrass	_____
Larry Kiker	_____
Tammara Hall	_____
Frank Mann	_____

DONE AND ADOPTED this ____ day of February 2013.

ATTEST:
LINDA DOGGETT, CLERK

LEE COUNTY
BOARD OF COUNTY COMMISSIONERS

BY: _____
Deputy Clerk

BY: _____
Cecil L Pendergrass, Chairman

Approved as to form by:

County Attorney's Office

**LEE COUNTY, FLORIDA
FINANCIAL & ADMINISTRATIVE IMPACT STATEMENT
PROPOSED COUNTY ORDINANCE**

NAME OF ORDINANCE: Two-Year Suspension of Impact Fees

I. DESCRIPTION OF ORDINANCE

A. Statement of Purpose

Temporarily suspension on the collection of development impact fees to stimulate economic development and the pursuit of construction activity; and,

B. Narrative Summary of Ordinance (Several Sentence Summary)

- (1) Suspends the collection of Road, Park, School, Fire and EMS Impact Fees for two years commencing on February 13, 2013 and terminating on February 13, 2015.
- (2) Clarifies the policy on refunds of fees paid.
- (3) Extends the duration of existing impact fee credits by two years (LDC).
- (4) Requires County Administration to update the Board on various economic indicators, including employment, taxable sales, and development permitting activity at the end of the first year of the suspension period.

B. Principal Division(s) or Department(s) Affected (List)

Department of Parks and Recreation
Department of Transportation
Department of Public Safety
School District of Lee County

Various Fire Districts

**LEE COUNTY, FLORIDA
FINANCIAL & ADMINISTRATIVE IMPACT STATEMENT
PROPOSED COUNTY ORDINANCE**

II. Fiscal Impact on County Agencies/County Funds

(This section to be completed by Division of Budget Services)

A. What is estimated Demand? N/A
(Develop Indicators)

B. What is estimated Workload? N/A
(Develop Indicators)

C. What are the estimated costs:

	1ST YEAR \$'s		2ND YEAR \$'s	
	Existing	New	Existing	New
PERSONNEL	N/A		N/A	
FRINGE	N/A		N/A	
OPERATING	N/A		N/A	
CAPITAL OUTLAY	N/A		N/A	
TOTAL				

D. List the anticipated revenues to cover costs identified in II.C. above. If a fee is to be charged, answer the following:

1. What is the basis (rationale) for the fee?
2. Do the anticipated fees cover the full cost of operation? If not, what percentage of the costs are covered?

E. Give a brief narrative analysis of the information contained in II.A. through D. above. With the approval of the ordinance, the impact fees would not be collected and available to fund new projects for each entity for a period of 2 years. The estimated lost revenue for 2 years is \$10.4 million.