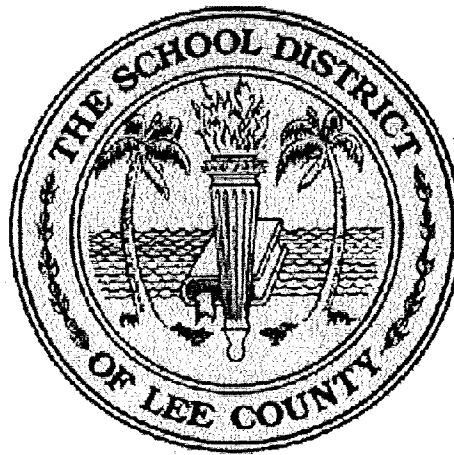


# EDUCATIONAL IMPACT FEE STUDY

prepared for

## THE SCHOOL DISTRICT OF LEE COUNTY, FLORIDA



prepared by

**duncan** | associates

in association with

**Dr. James C. Nicholas**

**August 2001**

## Contents

|  |    |
|--|----|
| INTRODUCTION .....                         | 1  |
| LEGAL FRAMEWORK .....                      | 1  |
| SCHOOL IMPACT FEES IN FLORIDA .....        | 2  |
| BENEFIT DISTRICTS .....                    | 5  |
| ASSESSMENT BASIS .....                     | 7  |
| STUDENT GENERATION RATES .....             | 8  |
| EXISTING LEVEL OF SERVICE .....            | 9  |
| CAPITAL COST PER STUDENT STATION .....     | 11 |
| NET CAPITAL COST PER STUDENT STATION ..... | 14 |
| MAXIMUM FEE SCHEDULES .....                | 16 |
| REVENUE POTENTIAL .....                    | 18 |

## Tables

|   |    |
|---|----|
| Table 1: FLORIDA COUNTY POPULATION GROWTH, 1990-2000 .....          | 3  |
| Table 2: FLORIDA SCHOOL IMPACT FEES .....                           | 4  |
| Table 3: ASSESSMENT BASIS FOR FLORIDA SCHOOL IMPACT FEES .....      | 4  |
| Table 4: MEDIAN SQUARE FEET, LEE COUNTY UNITS BUILT 1990-2000 ..... | 7  |
| Table 6: STUDENTS AND HOUSING UNITS, 1990 .....                     | 9  |
| Table 7: EXISTING SCHOOL INVENTORY .....                            | 9  |
| Table 8: LEVEL OF SERVICE, 2001 .....                               | 11 |
| Table 9: CONSTRUCTION COSTS PER STUDENT STATION .....               | 11 |
| Table 10: WEIGHTED CONSTRUCTION COST PER STUDENT STATION .....      | 12 |
| Table 11: LAND COST PER STUDENT STATION .....                       | 12 |
| Table 12: ANCILLARY FACILITY COSTS .....                            | 13 |
| Table 13: TOTAL ANCILLARY COST PER STATION .....                    | 13 |
| Table 14: TOTAL CAPITAL COST PER STUDENT STATION .....              | 14 |
| Table 15: CAPITAL FUNDING SOURCES .....                             | 14 |
| Table 16: STATE FUNDING CREDIT .....                                | 15 |
| Table 17: FUTURE PROPERTY TAX CREDIT .....                          | 15 |
| Table 18: PAST PROPERTY TAX CREDIT .....                            | 16 |
| Table 19: NET CAPITAL COST PER STUDENT STATION .....                | 16 |
| Table 20: SCHOOL NET COST PER DWELLING UNIT .....                   | 17 |
| Table 21: RESIDENTIAL BUILDING PERMITS, 1996-2000 .....             | 18 |
| Table 22: POTENTIAL ANNUAL SCHOOL IMPACT FEE REVENUE .....          | 19 |

LEE COUNTY  
PLANNING DIVISION

## **Introduction**

This study has been prepared on behalf of the School District of Lee County. The School Board is interested in pursuing school impact fees to provide an additional source of funding for new school construction to keep up with growth. Lee County staff has also been involved in the study, since the County will ultimately need to adopt the school impact fee ordinance if the fee is to be implemented.

## **Legal Framework**

Impact fees are charges that are assessed on new development to help pay for the capital facility costs they impose on the community. Unlike other types of developer exactions, impact fees are based on a standard formula and a pre-determined fee schedule. Essentially, impact fees require that each new residential or commercial project pay its pro-rata share of the cost of new facilities required to serve that development.

Since impact fees were pioneered in states like Florida that lacked specific enabling legislation, such fees have generally been legally defended as an exercise of local government's broad "police power" to protect the health, safety and welfare of the community. The courts have gradually developed guidelines for constitutionally valid impact fees, based on a "rational nexus" that must exist between the regulatory fee or exaction and the development activity that is being regulated. The standards set by impact fee case law generally require that an impact fee meet a three-part test:

- 1) The need for new facilities must be created by new development;
- 2) The amount of fee charged must not exceed a proportional fair share of the cost to serve new development; and
- 3) All fee revenues must be spent within a reasonable period of time and benefit the fee-paying development.

These principles have some important corollaries, which may be broadly categorized under the headings of "proportionality," "credits" and "benefit." The proportionality rules require that the fees cover only those costs that can be attributed to new development. In addition, applicants must have the option of attempting to demonstrate that their development will have less impact on the need for public facilities than is indicated by the fee schedule. The credit rules are designed to ensure that new development is not overcharged. These rules address both revenue credits, which are calculated up-front in the preparation of the fee schedule, and construction credits, which are determined on a case-by-case basis prior to fee payment. Revenue credits reduce the impact fee schedules to account for any other revenues that will be generated by new development and used to retire debt for existing facilities or to construct new facilities. Construction credits are used to offset an individual development's impact fees by the value of required land dedications or other developer improvements or contributions for the same types of facilities.

Finally, the benefit rules require that the fee revenues be spent within a reasonable period of time and within a reasonable proximity to the fee-paying development. The Florida courts have ruled that earmarking of funds for expenditure in the area in which they were collected is generally sufficient to establish reasonable benefit.

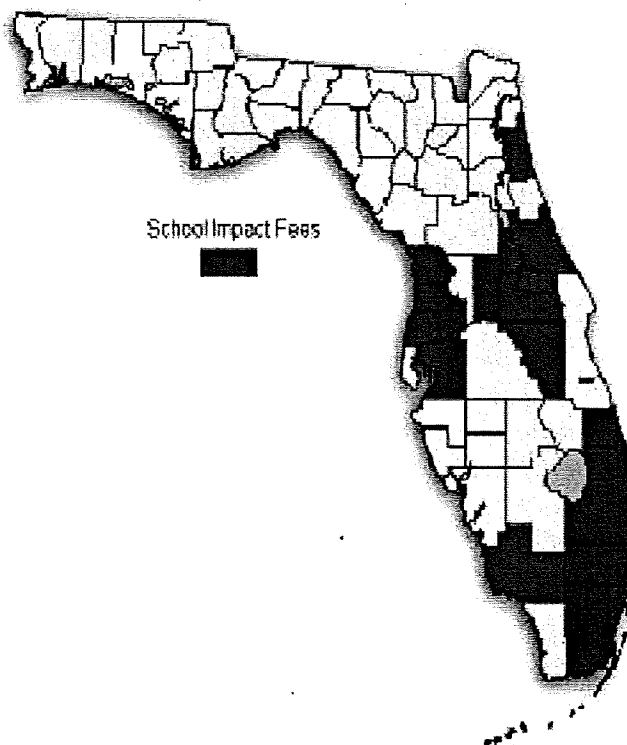
School impact fees have been litigated and upheld in Florida. In *St. Johns County v. N.E. Fla. Homebuilders*, the Florida Supreme Court ruled in 1991 that school impact fee ordinances do not conflict with the state constitutional requirement of a uniform system of public schools, and that neither the state constitution nor state law preempts county school impact fees. The Court did rule, however, that the failure of municipalities within the county to participate in the school impact fee could invalidate the ordinance, since some of the funding would be used to construct schools that would benefit development not subject to the fee. For this reason, the Court held that no impact fee could be collected under the ordinance until “substantially all of the population of St. Johns County is subject to the ordinance.”

Last year, the Florida Supreme Court heard another school impact fee case, *Volusia County v. Aberdeen at Ormond Beach, L.P.* The case was brought by the company that owns Aberdeen at Ormond Beach Manufactured Housing Community, an age-restricted mobile home park. The mobile home park had restrictive covenants that imposed limits on the age of residents, including a prohibition against permanent residence by persons younger than 18 years old. In its May 2000 ruling, the Court held that the school impact fee ordinance should not apply to age-restricted communities, because they will not generate a need for additional school facilities.

## School Impact Fees in Florida

In Florida, the more populous, urban counties where the most growth has been occurring (the two traits tend to go together in Florida) have been the ones that have enacted school impact fees. Currently, there are 16 Florida counties that charge school impact fees. Half of all counties with populations above 118,000 in 2000, and half of all counties that added more than 24,000 people during the 1990s have enacted school impact fees, while none of the counties falling below those thresholds have school impact fees. Lee County is one of only two counties that added more than 100,000 new residents in the 1990s and does not charge school impact fees (Duval is the other), as shown in Table 1.

**Figure 1**  
**COUNTIES WITH SCHOOL FEES**



**Table 1**  
**FLORIDA COUNTY POPULATION GROWTH, 1990-2000**

| County       | 2000<br>Population | 1990-2000<br>Pop. Growth | School<br>Fees | County     | 2000<br>Population | 1990-2000<br>Pop. Growth | School<br>Fees |
|--------------|--------------------|--------------------------|----------------|------------|--------------------|--------------------------|----------------|
| Broward      | 1,623,018          | 367,530                  | Yes            | Flagler    | 49,832             | 21,131                   | —              |
| Miami-Dade   | 2,253,362          | 316,268                  | Yes            | Highlands  | 87,366             | 18,934                   | —              |
| Palm Beach   | 1,131,184          | 267,666                  | Yes            | Columbia   | 56,513             | 13,900                   | —              |
| Orange       | 896,344            | 218,853                  | Yes            | Nassau     | 57,663             | 13,722                   | —              |
| Hillsborough | 998,948            | 164,894                  | Yes            | Walton     | 40,601             | 12,841                   | —              |
| Duval        | 778,879            | 105,908                  | —              | Hendry     | 36,210             | 10,437                   | —              |
| <b>Lee</b>   | <b>440,888</b>     | <b>105,775</b>           | <b>*</b>       | Wakulla    | 22,863             | 8,661                    | —              |
| Collier      | 251,377            | 99,278                   | Yes            | Levy       | 34,450             | 8,527                    | —              |
| Polk         | 483,924            | 78,542                   | *              | DeSoto     | 32,209             | 8,344                    | —              |
| Seminole     | 365,196            | 77,667                   | Yes            | Suwannee   | 34,844             | 8,064                    | —              |
| Brevard      | 476,230            | 77,252                   | —              | Hardee     | 26,938             | 7,439                    | —              |
| Volusia      | 443,343            | 72,631                   | Yes            | Okeechobee | 35,910             | 6,283                    | —              |
| Pinellas     | 921,482            | 69,823                   | —              | Jackson    | 46,755             | 5,380                    | —              |
| Osceola      | 172,493            | 64,765                   | Yes            | Putnam     | 70,423             | 5,353                    | —              |
| Marion       | 258,916            | 64,083                   | —              | Gilchrist  | 14,437             | 4,770                    | —              |
| Pasco        | 344,765            | 63,634                   | Yes            | Washington | 20,973             | 4,054                    | —              |
| Lake         | 210,528            | 58,424                   | Yes            | Gadsden    | 45,087             | 3,982                    | —              |
| Manatee      | 264,002            | 52,295                   | *              | Baker      | 22,259             | 3,773                    | —              |
| Sarasota     | 325,957            | 48,181                   | —              | Bradford   | 26,088             | 3,573                    | —              |
| Leon         | 239,452            | 46,959                   | —              | Dixie      | 13,827             | 3,242                    | —              |
| Saint Lucie  | 192,695            | 42,524                   | Yes            | Union      | 13,442             | 3,190                    | —              |
| Saint Johns  | 123,135            | 39,306                   | Yes            | Glades     | 10,576             | 2,985                    | —              |
| Alachua      | 217,955            | 36,359                   | —              | Holmes     | 18,564             | 2,786                    | —              |
| Santa Rosa   | 117,743            | 36,135                   | —              | Hamilton   | 13,327             | 2,397                    | —              |
| Clay         | 140,814            | 34,828                   | —              | Madison    | 18,733             | 2,164                    | —              |
| Escambia     | 294,410            | 31,612                   | —              | Taylor     | 19,256             | 2,145                    | —              |
| Charlotte    | 141,627            | 30,652                   | —              | Franklin   | 11,057             | 2,090                    | —              |
| Hernando     | 130,802            | 29,687                   | Yes            | Calhoun    | 13,017             | 2,006                    | —              |
| Okaloosa     | 170,498            | 26,722                   | —              | Gulf       | 13,332             | 1,828                    | —              |
| Martin       | 126,731            | 25,831                   | Yes            | Jefferson  | 12,902             | 1,606                    | —              |
| Citrus       | 118,085            | 24,570                   | Yes            | Monroe     | 79,589             | 1,565                    | —              |
| Indian River | 112,947            | 22,739                   | —              | Liberty    | 7,021              | 1,452                    | —              |
| Sumter       | 53,345             | 21,768                   | —              | Lafayette  | 7,022              | 1,444                    | —              |
| Bay          | 148,217            | 21,223                   | —              |            |                    |                          |                |

Source: 1990 and 2000 US Census      \* school impact fees under consideration.

The school impact fees charged by individual counties vary widely. For a typical three-bedroom, 2,000 square foot, single-family detached home, the fees range from a low of \$348 per unit in Hillsborough County to a high of \$2,828 per unit in Orange and Osceola Counties.

**Table 2**  
**FLORIDA SCHOOL IMPACT FEES**

| County        | Fee*    |
|---------------|---------|
| Hillsborough  | \$348   |
| Citrus        | \$636   |
| Saint Lucie   | \$800   |
| Martin County | \$973   |
| Volusia       | \$1,097 |
| Hernando      | \$1,173 |
| Palm Beach    | \$1,214 |
| Lake          | \$1,232 |
| Seminole      | \$1,384 |
| Broward       | \$1,543 |
| Pasco         | \$1,694 |
| Collier       | \$1,778 |
| Dade          | \$2,448 |
| Saint Johns   | \$2,630 |
| Orange        | \$2,828 |
| Osceola       | \$2,828 |

\* for typical 2,000 square-foot, single-family detached unit with three bedrooms

Source: Survey by Duncan Associates, April 2001

Most Florida counties simply assess school impact fees by housing type, although an increasing number are assessing them based on some measure of dwelling size. A recent survey of the 16 counties that assess school impact fees shows that a slight majority (9 out of the 16) assess their school impact fees based on housing type (e.g., single-family, multi-family, mobile home). One county (Volusia) charges all new dwelling units a flat rate, and the remaining seven assess fees based on some measure of unit size. Three of the counties, Lake, Broward, and Hillsborough, base fees on the number of bedrooms in combination with housing type. In addition, two counties (Martin and Palm Beach) have translated bedrooms into four or five size categories (e.g., a one-bedroom unit is on average less than 800 square feet, etc.). Finally, one county (Dade) charges school fees on a per square foot basis.

**Table 3**  
**ASSESSMENT BASIS FOR FLORIDA SCHOOL IMPACT FEES**

| Assessment Basis        | Counties  |
|-------------------------|---|
| Flat Rate Per Dwelling  | Volusia   |
| Housing Type            | Citrus, Collier, Hernando, Orange, Osceola, Pasco, St. Lucie, St. Johns, Seminole |
| Housing Type & Bedrooms | Broward, Hillsborough, Lake   |
| Size Categories         | Martin, Palm Beach  |
| Square Footage          | Dade  |

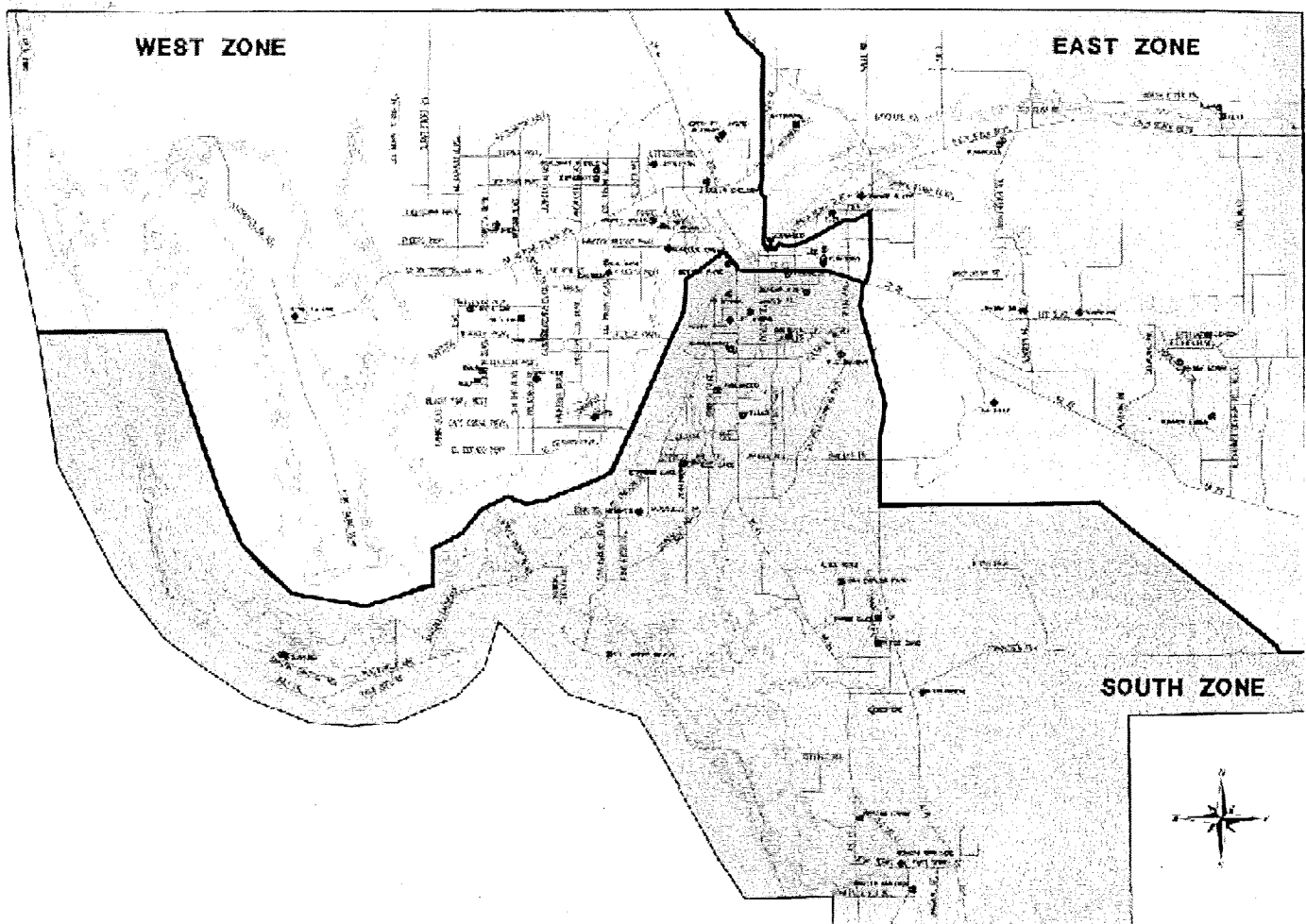
Source: Survey by Duncan Associates, April 2001

## Benefit Districts

When implementing school impact fees, the geographical area in which collected funds may be expended while providing benefit to the fee-paying development must be established. This geographical area is the "benefit district." Fees collected within a benefit district are spent on capital improvements within that district.

For the purpose of assigning students to individual schools, Lee County is divided into three "School Choice Zones." Students' parents may request that their children be assigned to any school of their choice within the School Choice Zone in which they live, and assignments are based on the parental ranking of school preference as well as a number of other factors. The current School Choice Zone boundaries, shown in Figure 2, have been in place since the program was initiated in 1998.

**Figure 2**  
**SCHOOL CHOICE ZONES**



While School Choice Zones would make reasonable benefit districts, it is recommended that there be a county-wide benefit district. The existing School Choice Zones are not fixed, and will likely be modified when the current configuration approved by court order expires in 2004. The construction of a school anywhere in the county will increase capacity to serve new development, regardless of location. As new schools are constructed, attendance zones, including School Choice Zones, are also modified to ensure that the capacity is efficiently utilized. A new residential development subject to a school impact fee is not guaranteed that its students will attend a new school paid for with those impact fees, just as a new development paying road impact fees is not guaranteed the ability to drive exclusively on new roads funded with those road impact fees. Instead, the benefit to an impact fee paying development is that the impact fees are spent to expand the overall capacity of the public school system, so that the students living in new developments have student stations available for them, regardless of whether those stations are in new or existing schools. The recommended county-wide benefit district will allow the School Board to accumulate sufficient funds to construct new schools much more quickly than would be the case if the impact fee revenue had to be segregated into three or more separate funds.

Using the concept of a county-wide benefit district, the Lee County School District will strive to locate new schools as close as possible to where new residential development is occurring in order to promote neighborhood schools and minimize pupil transportation costs. To provide an assurance that impact fees will be spent in a manner that will provide benefit to fee payers, it is recommended that the School Board adopt a board policy to the effect that it intends to spend impact fee funds largely on new schools that are located as close as possible to where new residential development is occurring. Because of the cost of new schools, it will not be possible to construct a new school in close proximity to all growth areas in the county every year. Nevertheless, it should be possible to show a reasonable correlation between where new schools funded by impact fees are located and where new residential growth is occurring in the School Boards' five-year capital improvements plan, which is updated on an annual basis. An annual report by the School Board to the County Commission showing the geographic distribution of historic and anticipated impact fee revenues and expenditures should be required by the school impact fee ordinance to provide additional assurance that fee payers will benefit from the new facilities funded by the impact fees.

A special case geographically is the island of Boca Grande, which is part of Lee County but has road access only to Charlotte County (other islands with no road access to mainland Lee County have no road access at all and are transported by boat and attend Lee County schools). School-aged children living on Boca Grande have the option of attending public school in Charlotte County or attending Lee County's Island School charter school. In either case, the Lee County School Board does not currently provide student stations directly or indirectly for Boca Grande residents. Lee County School Board has an interlocal agreement with the Charlotte County School Board to serve these children, and Lee County transfers to Charlotte County the state funding for operations that it receives for its residents that attend Charlotte County public schools. It is recommended that the school impact fees collected from new development on Boca Grande be segregated and made available to the Charlotte County School Board for capital improvements that would reasonably benefit Boca Grande residents. If no agreement is reached with Charlotte County about the expenditure of these funds, and Lee County does not take over responsibility for providing for these students within the expenditure time limits provided in the impact fee ordinance, school impact fees collected on Boca Grande would be refunded to the fee payers as required by the school impact fee ordinance.



## Assessment Basis

School fees can be assessed on the basis of housing type, number of bedrooms, size in square feet, or some combination of these characteristics. Assessing on the basis of the combination of housing type and number of bedrooms, as is done in Broward, Hillsborough and Lake Counties, runs into the problem of limited sample size for certain type/size combinations in Lee County.

Another possible approach is to translate bedrooms into size categories, as is done in Martin and Palm Beach County's school impact fees. To explore this possibility, the consultants analyzed data on units built since 1989 from the Lee County Property Appraiser's records. Data on unit size in square feet was available for single-family detached and mobile home units, but not for apartments. Duplex was the only type of multi-family for which square feet per unit could be established. These data, summarized in Table 4, reveal that there is not a lot of difference in size between 2-bedroom and 3-bedroom units, and that single-family and duplex units are considerably larger than mobile home units with the same number of bedrooms. These data indicate that the size of the unit in square feet is not a reliable proxy for the number of bedrooms, at least for new units built in Lee County.

**Table 4**  
**MEDIAN SQUARE FEET, LEE COUNTY UNITS BUILT 1990-2000**

| Number of Bedrooms        | Single-Family Det. | Half a Duplex | Mobile Home   |
|---------------------------|--------------------|---------------|---------------|
| 1-Bedroom/Efficiency Unit | 1,004 sq. ft.      | —             | 420 sq. ft.   |
| 2-Bedroom Unit            | 1,839 sq. ft.      | 1,748 sq. ft. | 1,056 sq. ft. |
| 3-Bedroom Unit            | 2,029 sq. ft.      | 2,010 sq. ft. | 1,404 sq. ft. |
| 4-Bedroom+ Unit           | 2,771 sq. ft.      | —             | —             |
| All Unit Sizes            | 2,082 sq. ft.      | 1,864 sq. ft. | 792 sq. ft.   |
| <b>Sample Size:</b>       |                    |               |               |
| 1-Bedroom/Efficiency Unit | 126 units          | 1 units       | 784 units     |
| 2-Bedroom Unit            | 3,148 units        | 394 units     | 781 units     |
| 3-Bedroom Unit            | 23,151 units       | 337 units     | 287 units     |
| 4-Bedroom+ Unit           | 4,169 units        | 2 units       | 26 units      |
| All Unit Sizes            | 30,594 units       | 734 units     | 1,878 units   |

Source: Lee County Property Appraiser data for year 2000, for units built since 1989.

In sum, the two characteristics that would be the most appropriate basis for assessing Lee County's school impact fees are housing type and number of bedrooms. Since both housing type and number of bedrooms provide a defensible basis on which to assess school impact fees, the choice between them can be made on the basis of policy objectives or practical considerations. These issues are discussed at the end of this report.

## Student Generation Rates

The impact of new residential development on the demand for school facilities is based on the number of public school students generated per dwelling unit. The best available data source on student generation rates by type of dwelling unit in Lee County is still the 1990 U.S. Census. The total number of units in Lee County in 2000 is available from the 2000 census, but the number of students generated by a particular type of dwelling unit will not be available until 2002.

The most up-to-date data on student generation rates by type of dwelling unit are available from the 5 percent sample of the 1990 census, consisting of the 7,347 households that filled out the long-form questionnaire. The student generation rates are not derived from the ratio of students to occupied units, since not all new units will be occupied at all times. To take into account less than full occupancy, the student generation rates are calculated as the ratio of students to total dwelling units.

Public school districts in Florida are responsible for providing educational services to pre-kindergarten children eligible for Exceptional Student Education (ESE) programs as well as kindergarten through twelfth grade (K-12) students. In using the census sample data, public school students are defined as persons aged 5 through 18 years old attending public school. The student generation rates by type of dwelling unit and by number of bedrooms are shown in Table 5.

**Table 5**  
**STUDENT GENERATION RATES, 1990**

| Type of Unit              | Public<br>School<br>Students | Total<br>Units | Students/<br>Unit |
|---------------------------|------------------------------|----------------|-------------------|
| Single-Family Detached    | 1,617                        | 4,980          | 0.325             |
| Multi-Family              | 354                          | 3,494          | 0.101             |
| Mobile Home               | 111                          | 1,782          | 0.062             |
| All Unit Sizes            | 2,082                        | 10,256         | 0.203             |
| <b>Number of Bedrooms</b> |                              |                |                   |
| Up to 2 Bedrooms          | 512                          | 6,212          | 0.082             |
| 3 Bedrooms                | 1,180                        | 3,458          | 0.341             |
| 4 Bedrooms +              | 390                          | 586            | 0.666             |
| All Units                 | 2,082                        | 10,256         | 0.203             |

Source: U.S. Census Bureau, 1990 Public Use Microdata Sample (PUMS)  
5% sample data for Lee County; public school students are persons aged  
5-18 years attending public school.

To ensure that the student generation rates derived from the 1990 sample data are representative of actual conditions in 1990, the overall student generation rate was compared to the ratio of actual public school enrollment in the Lee County School District to the total number of dwelling units enumerated by the US census in Lee County in 1990. As Table 6 shows, the ratio of students to total units observed at the time of the 1990 census is 8.4 percent higher than the overall student generation rate from the sample census data. This indicates that the student generation rates derived from the 1990 census sample data somewhat under-predict actual student generation.

**Table 6**  
**STUDENTS AND HOUSING UNITS, 1990**

|  |         |
|--|---------|
| Lee County School District Enrollment, 1989/90 | 41,555  |
| Total Dwelling Units, 1990                     | 189,051 |
| Actual Students per Unit, 1990                 | 0.220   |
| Estimated Students per Unit, 1990 Sample Data  | 0.203   |
| Ratio of Actual to Estimated Students per Unit | 1.084   |

*Source:* Lee County Public School enrollment for 1989/1990 calendar year from Lee County School District; total dwelling units (occupied and vacant) in Lee County as of April 1 from 1990 U.S. Census.

## Existing Level of Service

To determine the current level of service for educational facilities in Lee County, the inventory of the existing educational facilities was summarized. Table 8 shows the existing school inventory, including the name of each school, site area, building square feet (permanent and relocatable), capacity in permanent student stations based on Florida Inventory of School Houses (FISH) standards, and current enrollment. The only charter school in the District, the Island School, with a current enrollment of 20 students, was not included in the inventory, because the District is not responsible for funding the capital costs of serving these students.

**Table 7**  
**EXISTING SCHOOL INVENTORY**

| School                      | Acres | Permanent<br>Sq. Feet | Portable<br>Sq. Feet | Student<br>Stations | 2000/01<br>Enrollment |
|-----------------------------|-------|-----------------------|----------------------|---------------------|-----------------------|
| Allen Park Elementary       | 14.0  | 81,600                | 720                  | 852                 | 767                   |
| Alva Elementary             | 6.0   | 46,318                | 720                  | 390                 | 381                   |
| Bayshore Elementary         | 20.0  | 56,914                | 2,794                | 461                 | 523                   |
| Bonita Springs Elementary   | 5.0   | 36,803                | 720                  | 332                 | 329                   |
| Caloosa Elementary          | 20.0  | 70,893                | 3,360                | 989                 | 1,005                 |
| Cape Elementary             | 14.0  | 86,931                | 0                    | 944                 | 942                   |
| Colonial Elementary         | 19.0  | 91,178                | 960                  | 889                 | 778                   |
| Diplomat Elementary         | 20.0  | 91,257                | 3,600                | 888                 | 964                   |
| Edgewood Renaissance        | 13.5  | 90,514                | 0                    | 871                 | 854                   |
| Edison Park Creative Arts   | 7.0   | 69,781                | 0                    | 616                 | 510                   |
| Fort Myers Beach Elementary | 11.0  | 26,938                | 0                    | 234                 | 187                   |
| Franklin Park Elementary    | 20.0  | 83,481                | 0                    | 753                 | 429                   |
| Gateway Elementary          | 16.0  | 111,216               | 0                    | 979                 | 917                   |
| Gulf Elementary             | 30.0  | 88,340                | 3,480                | 964                 | 975                   |
| Hancock Creek Elementary    | 25.0  | 116,415               | 0                    | 936                 | 892                   |
| Heights Elementary          | 25.0  | 74,781                | 3,600                | 837                 | 751                   |
| J.Colin English Elementary  | 15.0  | 90,605                | 0                    | 770                 | 740                   |
| Lehigh Elementary           | 15.0  | 79,118                | 0                    | 873                 | 921                   |
| Littleton Academy           | 20.0  | 108,184               | 1,920                | 964                 | 933                   |
| Michigan Montessori *       | 18.0  | 84,482                | 0                    | 778                 | 627                   |
| Mirror Lakes Elementary     | 26.0  | 83,285                | 0                    | 759                 | 834                   |
| Orange River Elementary     | 14.0  | 71,050                | 3,840                | 726                 | 754                   |
| Orangewood Elementary       | 13.0  | 87,013                | 0                    | 779                 | 813                   |
| Pelican Elementary          | 22.0  | 87,447                | 4,320                | 952                 | 996                   |
| Pine Island Elementary      | 15.0  | 53,861                | 0                    | 446                 | 448                   |

| School                            | Acres          | Permanent<br>Sq. Feet | Portable<br>Sq. Feet | Student<br>Stations | 2000/01<br>Enrollment |
|-----------------------------------|----------------|-----------------------|----------------------|---------------------|-----------------------|
| Pinewoods Elementary              | 37.0           | 107,408               | 0                    | 952                 | 916                   |
| San Carlos Park Elementary        | 23.0           | 89,306                | 0                    | 957                 | 920                   |
| The Sanibel School *              | 25.0           | 23,085                | 3,780                | 208                 | 415                   |
| Skyline Elementary                | 20.0           | 86,961                | 7,080                | 889                 | 1,001                 |
| Spring Creek Elementary           | 21.0           | 90,794                | 1,920                | 918                 | 912                   |
| N. Ft. Myers Academy/Arts         | 25.0           | 80,981                | 6,000                | 867                 | 597                   |
| Sunshine Elementary               | 18.0           | 92,212                | 960                  | 925                 | 921                   |
| Tanglewood/Riverside Elem.        | 10.0           | 77,873                | 0                    | 752                 | 571                   |
| Three Oaks Elementary             | 19.0           | 86,574                | 4,560                | 889                 | 935                   |
| Tice Elementary                   | 21.0           | 65,979                | 7,920                | 646                 | 645                   |
| Tropic Isles Elementary           | 20.0           | 85,154                | 1,920                | 906                 | 963                   |
| Villas Elementary                 | 22.0           | 78,853                | 6,000                | 804                 | 782                   |
| <b>Elementary School Subtotal</b> | <b>684.5</b>   | <b>2,933,585</b>      | <b>70,174</b>        | <b>28,695</b>       | <b>27,848</b>         |
| Alva Middle                       | 13.0           | 83,325                | 4,040                | 628                 | 692                   |
| Bonita Springs Middle             | 16.0           | 122,173               | 0                    | 1,093               | 1,034                 |
| Caloosa Middle                    | 20.0           | 97,840                | 10,560               | 1,142               | 1,173                 |
| Cypress Lake Middle               | 29.0           | 136,488               | 5,760                | 1,045               | 1,129                 |
| Diplomat Middle                   | 12.0           | 138,465               | 0                    | 1,168               | 1,112                 |
| P. L. Dunbar Middle               | 51.0           | 163,413               | 0                    | 1,132               | 1,023                 |
| Fort Myers Middle                 | 20.0           | 127,117               | 6,480                | 874                 | 804                   |
| Gulf Middle                       | 30.0           | 126,543               | 960                  | 1,148               | 1,137                 |
| Lee Middle                        | 20.0           | 136,824               | 3,360                | 994                 | 991                   |
| Lehigh Acres Middle               | 34.0           | 119,878               | 6,720                | 1,151               | 1,291                 |
| N Ft Myers Acad/Arts              | 23.0           | 118,133               | 8,640                | 1,082               | 545                   |
| Three Oaks Middle                 | 25.0           | 137,880               | 5,040                | 1,062               | 1,077                 |
| Trafalgar Middle                  | 68.0           | 143,048               | 10,800               | 1,122               | 1,265                 |
| <b>Middle School Subtotal</b>     | <b>361.0</b>   | <b>1,651,127</b>      | <b>62,360</b>        | <b>13,641</b>       | <b>13,273</b>         |
| Cape Coral High                   | 40.0           | 249,970               | 720                  | 1,760               | 1,799                 |
| Cypress Lake High & CFTA          | 30.0           | 263,269               | 0                    | 1,880               | 1,919                 |
| Dunbar High                       | 55.0           | 154,297               | 0                    | 1,289               | 275                   |
| Estero High                       | 69.0           | 222,750               | 10,800               | 1,794               | 1,753                 |
| Fort Myers High                   | 34.0           | 246,699               | 1,584                | 1,771               | 1,977                 |
| Lehigh Senior High                | 96.0           | 283,869               | 0                    | 1,586               | 1,511                 |
| Mariner High                      | 124.0          | 251,468               | 7,200                | 1,909               | 1,783                 |
| North Fort Myers High             | 36.0           | 255,153               | 0                    | 1,853               | 1,786                 |
| Riverdale High *                  | 42.0           | 214,269               | 0                    | 1,604               | 1,488                 |
| <b>High School Subtotal</b>       | <b>526.0</b>   | <b>2,141,744</b>      | <b>20,304</b>        | <b>15,446</b>       | <b>14,291</b>         |
| <b>Regular Facility Subtotal</b>  | <b>1,571.5</b> | <b>6,726,456</b>      | <b>152,838</b>       | <b>57,782</b>       | <b>55,412</b>         |
| New Directions                    | 15.0           | 152,313               | 0                    | 676                 | 986                   |
| Buckingham Exceptional            | 25.0           | 26,383                | 0                    | 88                  | 83                    |
| Countywide ESE                    | -              | -                     | -                    | -                   | 134                   |
| Detention Center                  | -              | 4,245                 | 0                    | 0                   | 84                    |
| District Pre-K                    | -              | -                     | -                    | -                   | 17                    |
| Fort Myers Edison Center          | 4.0            | 22,243                | 0                    | 130                 | 147                   |
| High Tech Central                 | 30.0           | 176,446               | 7,600                | 0                   | 79                    |
| High Tech North                   | 15.0           | 61,927                | 0                    | 0                   | 51                    |
| Marine Institute                  | -              | -                     | -                    | -                   | 59                    |
| Price Halfway House               | -              | -                     | -                    | -                   | 38                    |
| Royal Palm                        | 7.0            | 59,332                | 0                    | 215                 | 189                   |
| <b>Special Facility Subtotal</b>  | <b>96.0</b>    | <b>502,889</b>        | <b>7,600</b>         | <b>1,109</b>        | <b>1,867</b>          |
| <b>Total of All Schools</b>       | <b>1,667.5</b> | <b>7,229,345</b>      | <b>160,438</b>       | <b>58,891</b>       | <b>57,279</b>         |

Source: Lee County School District; enrollment based on fourth cycle (January).

\* includes some 6th-8th graders

The existing level of service for educational facilities in Lee County is summarized in Table 8. The current use of portable classrooms is minimal, at only about two percent of overall capacity. Overall, there are more than enough permanent student stations in regular facilities to accommodate current enrollment, without even counting permanent stations in special facilities. Consequently, there are no existing deficiencies.

**Table 8**  
**LEVEL OF SERVICE, 2001**

|  |        |
|--|--------|
| Enrollment 2000/01 School Year                 | 57,279 |
| Permanent Student Stations, Regular Facilities | 57,782 |
| Permanent Student Stations, Special Facilities | 1,109  |
| Total Permanent Student Stations               | 58,891 |
| Relocatable Student Stations                   | 1,307  |
| Total Student Stations                         | 60,198 |

Source: Table 7; number of student stations in portables estimated using the average size of permanent student stations and dividing that average into the total floor area of portables.

## Capital Cost per Student Station

Table 10 shows construction costs for recently-constructed elementary, middle, and high schools in the Lee County School District. In order to calculate the average cost per student station it is necessary to first adjust the historic school facility construction costs to 2001 levels. The *Engineering News-Record* Construction Cost Index is used to estimate 2001 facility costs. The adjusted school facility construction costs are then divided by the number of students stations to determine the cost per station.

**Table 9**  
**CONSTRUCTION COSTS PER STUDENT STATION**

| School Facility       | Year Built | Original Cost | Cost Factor | Replacement Cost | Student Stations | Cost Per Station |
|-----------------------|------------|---------------|-------------|------------------|------------------|------------------|
| J. Colin English      | 1996       | \$9,821,542   | 1.124       | \$11,039,413     | 770              | \$14,337         |
| Mirror Lake           | 1997       | \$8,928,824   | 1.085       | \$9,687,774      | 759              | \$12,764         |
| Caloosa               | 1998       | \$11,622,412  | 1.067       | \$12,401,114     | 989              | \$12,539         |
| Average Elementary    |            |               |             |                  |                  | \$13,213         |
| Dunbar                | 1999       | \$16,542,959  | 1.043       | \$17,254,306     | 1,132            | \$15,242         |
| Diplomat              | 1996       | \$14,975,876  | 1.124       | \$16,832,885     | 1,168            | \$14,412         |
| Caloosa               | 1998       | \$15,318,837  | 1.067       | \$16,345,199     | 1,142            | \$14,313         |
| Average Middle School |            |               |             |                  |                  | \$14,656         |
| Lehigh                | 1994       | \$26,747,355  | 1.168       | \$31,240,911     | 1,586            | \$19,698         |
| Dunbar                | 2000       | \$20,065,152  | 1.016       | \$20,386,194     | 1,289            | \$15,816         |
| Average High School   |            |               |             |                  |                  | \$17,757         |

Source: Lee County School District; cost factors as of June 2001 from *Engineering News-Record* at [www.enr.com](http://www.enr.com).

The average construction costs per student station for elementary, middle and high schools are weighted by current enrollment to produce a weighted average construction cost per student station of \$14,731, as shown in Table 10.

**Table 10**  
**WEIGHTED CONSTRUCTION COST PER STUDENT STATION**

| Grade Level | No. of Students | % of Enrollment | Avg. Cost/ Station | Weighted Cost/Station |
|-------------|-----------------|-----------------|--------------------|-----------------------|
| Elementary  | 27,848          | 50.26%          | \$13,213           | \$6,641               |
| Middle      | 13,273          | 23.95%          | \$14,656           | \$3,510               |
| High        | 14,291          | 25.79%          | \$17,757           | \$4,580               |
| Total       | 55,412          | 100.00%         |                    | \$14,731              |

Source: Number of students in regular facilities from Table 7; average construction cost per station from Table 9.

This average construction cost is right in the range of what we have found in other impact fee studies. A 1995 study for Miami/Dade County identified an average school construction cost of \$13,765, a 1998 study for Martin County used \$16,225 per student station, and a study completed this year for Citrus County found an average cost of \$14,177 per student station.<sup>1</sup>

In a recent plant survey, the District used a figure of \$160,000 per acre for land cost, which includes land purchase, land clearing, grubbing, land development, infrastructure, permitting and so on, so it is all inclusive. As for recent raw land purchases, the District paid \$75,278 per acre for the 51-acre new Dunbar Middle School site.

The total land cost is calculated by multiplying the total acreage of all of the District's educational facilities by \$160,000. The total cost is then divided by the total number of permanent student stations to produce a figure that represents the land replacement cost per student station, as shown in Table 11.

**Table 11**  
**LAND COST PER STUDENT STATION**

|                               |               |
|-------------------------------|---------------|
| Total Acres                   | 1,667.5       |
| Cost Per Acre                 | \$160,000     |
| Total Land Cost               | \$266,800,000 |
| Permanent Student Stations    | 58,891        |
| Land Cost Per Student Station | \$4,530       |

Source: Total acres from Table 7; permanent student stations from Table 7; cost per acre from Lee County School District.

In addition to schools themselves, the District provides ancillary facilities that must also be expanded as enrollment grows. These ancillary facilities include administration buildings, buses and fleet maintenance facilities. Table 12 shows the building and land replacement costs of the District's

<sup>1</sup>Duncan Associates, et. al., *Dade County Educational Facility Impact Fees, Methodology and Technical Report*, April 1995; Growth Management Analysts, *Martin County Impact Fee Review*, October 1998; Duncan Associates, *Citrus County Impact Fee Update*, January 2001.

ancillary facilities. The construction replacement costs are calculated by multiplying the sum the of the permanent square footage of all ancillary facilities by \$90, which is the current estimated replacement cost per square foot for Lee County. The land replacement cost is based on the previously used land cost of \$160,000 per acre.

**Table 12**  
**ANCILLARY FACILITY COSTS**

| Facility                           | Square Feet  | Acres        |
|------------------------------------|--------------|--------------|
| Adam's Administration              | 57,262       | 5.0          |
| Dunbar Athletic                    | 478          | 4.0          |
| Dunbar Community                   | 34,783       | 6.0          |
| Gwynne Building                    | 19,682       | 1.0          |
| Hipps Building                     | 40,222       | 3.0          |
| R. & R. Annex Building             | 9,984        | 1.0          |
| Supply Department                  | 18,308       | 1.0          |
| Support Services                   | 63,810       | 10.0         |
| Transportation (N/S/Central)       | 21,212       | 10.0         |
| Transportation (East) *            | 13,614       | -            |
| Transportation (North)             | -            | 20.0         |
| Transportation (S.-Six Mile)       | -            | 35.0         |
| Total Area                         | 279,355      | 96.0         |
| Replacement Cost Per Sq. Foot/Acre | \$90         | \$160,000    |
| Replacement Cost                   | \$25,141,950 | \$15,360,000 |

Source: Lee County School District, May 2001.

Currently, the District has 599 buses in daily service. This includes 535 on daily routes and 64 spare buses. The spare buses are used for field trips and as substitute buses when the route buses are in for service. The current cost of new school buses is \$56,750 each. The total ancillary cost is the sum of all construction, land acquisition/site preparation, and transportation equipment costs, shown in Table 12. The total cost is divided by the current number of permanent student stations to determine the ancillary capital cost per student station.

**Table 13**  
**TOTAL ANCILLARY COST PER STATION**

|  |              |
|--|--------------|
| No. of Buses in Service                    | 599          |
| Bus Unit Replacement Cost                  | \$56,750     |
| Bus Replacement Cost                       | \$33,993,250 |
| Building Replacement Cost                  | \$25,141,950 |
| Land Replacement Cost                      | \$15,360,000 |
| Total Replacement Cost                     | \$74,495,200 |
| Total Permanent Student Stations           | 58,891       |
| Ancillary Capital Cost Per Student Station | \$1,265      |

Source: Number of buses and unit cost from Lee County School District; building and land replacement costs from Table 12; total stations from Table 7.

The sum of school construction, school land and ancillary capital costs yields the total capital cost per student station required to accommodate the District's growing enrollment at current levels of service, as presented in Table 14.

**Table 14**  
**TOTAL CAPITAL COST PER STUDENT STATION**

|   |                 |
|---|-----------------|
| Construction Cost Per Student Station         | \$14,731        |
| Land Cost Per Student Station                 | \$4,530         |
| Ancillary Capital Cost Per Student Station    | \$1,265         |
| <b>Total Capital Cost Per Student Station</b> | <b>\$20,526</b> |

*Source:* Construction cost per station from Table 10; land cost from Table 11; ancillary capital cost from Table 13.

### Net Capital Cost per Student Station

The District's major source of capital funding is the local Capital Improvement Tax (CIT). Over the next five years, the District will raise over \$300 million in CIT revenues, compared to less than \$30 million in anticipated state funding. A significant amount of local revenues, however, will be needed to retire outstanding Certificates of Participation (COPs), which were issued to pay for past school construction, as well as short-term loans (Section 237.161 loans), leaving about \$227 million available for capital projects, including both replacement, maintenance and rehabilitation of existing facilities and equipment as well as new capital facilities to accommodate growth. The District is not planning on issuing any new debt over the next five years. The anticipated funding sources for the next five years identified in the District's adopted capital improvements program are summarized in Table 15.

**Table 15**  
**CAPITAL FUNDING SOURCES**

| Source                     | FY 01/02            | FY 02/03            | FY 03/04            | FY 04/05            | FY 05/06            | 5-Yr Total           |
|----------------------------|---------------------|---------------------|---------------------|---------------------|---------------------|----------------------|
| PECO                       | \$6,058,495         | \$6,116,142         | \$4,977,380         | \$4,277,002         | \$4,354,039         | \$25,783,058         |
| CO & DS                    | \$604,299           | \$714,514           | \$805,798           | \$886,798           | \$913,402           | \$3,924,811          |
| Subtotal, State Funds      | \$6,662,794         | \$6,830,656         | \$5,783,178         | \$5,163,800         | \$5,267,441         | \$29,707,869         |
| Capital Imprvmnt Tax       | \$58,970,761        | \$60,739,884        | \$62,562,081        | \$64,438,943        | \$66,372,111        | \$313,083,780        |
| Interest                   | \$1,439,000         | \$1,497,500         | \$1,532,800         | \$1,625,055         | \$1,621,550         | \$7,715,905          |
| Other                      | \$65,000            | \$65,000            | \$65,000            | \$65,000            | \$65,000            | \$325,000            |
| Total Capital Revenue      | \$67,137,555        | \$69,133,040        | \$69,943,059        | \$71,292,798        | \$73,326,102        | \$350,832,554        |
| Debt Service Payments      | \$26,596,845        | \$23,378,254        | \$23,224,216        | \$23,076,700        | \$22,923,426        | \$119,199,441        |
| General Fund Transfers     | \$3,117,259         | \$1,246,903         | \$0                 | \$0                 | \$0                 | \$4,364,162          |
| <b>Net Capital Revenue</b> | <b>\$37,423,451</b> | <b>\$44,507,883</b> | <b>\$46,718,843</b> | <b>\$48,216,098</b> | <b>\$50,402,676</b> | <b>\$227,268,951</b> |

*Source:* School District of Lee County, "Five Year Capital Plan" adopted May 1, 2001.

Of the net capital funding anticipated to be available over the next five years, only 13.1 percent will come from the state. Assuming that state funding will pay for this percentage of all growth-related capital costs, a state funding credit of \$2,689 will be deducted from the total cost per student station, as shown in Table 16.



**Table 16**  
**STATE FUNDING CREDIT**

|   |               |
|---|---------------|
| Anticipated State Capital Funds, FY 01/02-05/06 | \$29,707,869  |
| Net Capital Funding, FY 01/02-05/06             | \$227,268,951 |
| Percent of State Funding                        | 13.1%         |
| Capital Cost per Student Station                | \$20,526      |
| State Funding per Student Station               | \$2,689       |

*Source:* State and total net capital funding from Table 15; capital cost per student station from Table 14.

The School District is authorized to impose a Capital Improvement Tax (CIT). The proceeds from this tax are used to pay for school improvements. New residential developments that will send children to District schools will also pay the CIT. Therefore, it is necessary to calculate a credit to equitably reflect what new developments will pay toward their school capital needs. New residential developments will also pay other school property taxes, a portion of which will be used to retire some outstanding general obligation bond debt.

The CIT millage rate is already at the maximum level of \$2.00 per \$1,000 of taxable value. Applying this tax rate to the residential taxable value per student yields an annual payment per new student. The present value of this stream of annual payments over the next 20 years is \$8,190, as shown in Table 17. This means that the Lee County School District can anticipate receiving the equivalent of \$8,190 per new student that will be available for capital improvements from local taxes generated by new residential development. This amount will be deducted as a credit from the total cost per student station.

**Table 17**  
**FUTURE PROPERTY TAX CREDIT**

|   |              |
|---|--------------|
| Residential Taxable Value (\$000), FY 00/01   | \$20,874,000 |
| Student Enrollment, 2000/01                   | 57,279       |
| Residential Taxable Value Per Student (\$000) | \$364        |
| Capital Millage Rate (per \$1,000)            | \$2.00       |
| Annual Tax Payments Per Student               | \$728        |
| Net Present Value Factor                      | 11.25        |
| Capitalized Taxes Per Student                 | \$8,190      |

*Source:* Residential taxable value from Property Appraiser; current student enrollment from Table 7; net present value factor based on 20 years at 6.24% discount rate; discount rate based on the County's average return on investments in the State Board of Administration (SBA) investment pool for the year 2000.

The local source of school capital funds is the property tax. This tax is imposed on all properties in Lee County regardless of the presence of school attendees. This means that the vacant land that is now becoming new residential development has been paying toward school capital facility costs without sending any attendees to those schools. Such payments were a matter of law and there is no guaranteed quid pro quo in return for paying taxes. Nevertheless, these payments were made and some consideration should be given for those payments in the form of a past property tax credit. As shown in Table 18, vacant residential property in Lee County accounts for 8.8 percent of all property

tax revenues, and 4.1 percent of all Lee County School District revenues. Applying this percentage to the cost per student station results in a past property tax credit of \$842 per student station.

**Table 18**  
**PAST PROPERTY TAX CREDIT**

|  |              |
|--|--------------|
| Vacant Residential Taxable Value (\$000)                       | \$2,285,000  |
| Total Taxable Value (\$000)                                    | \$25,923,000 |
| Vacant Residential as Percent of Total Taxable Value           | 8.8%         |
| Percent of All Revenue from Property Taxes                     | 46.6%        |
| Property Tax from Vacant Residential as Percent of all Revenue | 4.1%         |
| Capital Cost per Student Station                               | \$20,526     |
| Past Property Tax Credit per Student Station                   | \$842        |

Source: Taxable value from Lee County Property Appraiser, June 2001; percent of revenue from property taxes from School District of Lee County, *Budget, 2000-2001*, November 10, 2000, page 2-5 (fund balances not included), 4-2 and 4-6; cost per station from Table 14.

Reducing the capital cost per student station by the amount of the credits for anticipated state funding and the present value of future and past property taxes that have been or will be paid by new residential development and available to fund capital improvements results in the net cost per station of \$8,805, as shown in Table 19.

**Table 19**  
**NET CAPITAL COST PER STUDENT STATION**

|  |          |
|--|----------|
| Total Capital Cost per Student Station         | \$20,526 |
| State Funding per Student Station              | \$2,689  |
| Future Property Tax Credit per Student Station | \$8,190  |
| Past Property Tax Credit per Student Station   | \$842    |
| Net Capital Cost per Student Station           | \$8,805  |

Source: Total capital cost from Table 14; state funding credit from Table 16; future property tax credit from Table 17; past property tax credit from Table 18.

## **Maximum Fee Schedules**

As discussed earlier, this report explores the possibility of basing the school impact fees on either housing type or the number of bedrooms. Either approach is defensible. Both sets of characteristics are strongly related to the number of school-age children that will reside in the unit and attend public school in Lee County. Sound, reliable data are available for Lee County's student generation rates by housing type and number of bedrooms characteristics, in the form of five percent sample data from Lee County households from the 1990 census. Even better data will be available in about two years when comparable 2000 census data are released, but for now the 1990 census data are the best available. Consequently, this report presents two alternative maximum fee schedules, and the choice between them is a policy issue to be decided by the Board of County Commissioners.

The maximum fees per dwelling unit are the product of the number of public school students that, on average, can be expected to be generated from the type of unit and the net cost per student station

calculated in this report. The resulting maximum school fees, whether assessed on the basis of unit type or number of bedrooms, are shown in Table 20.

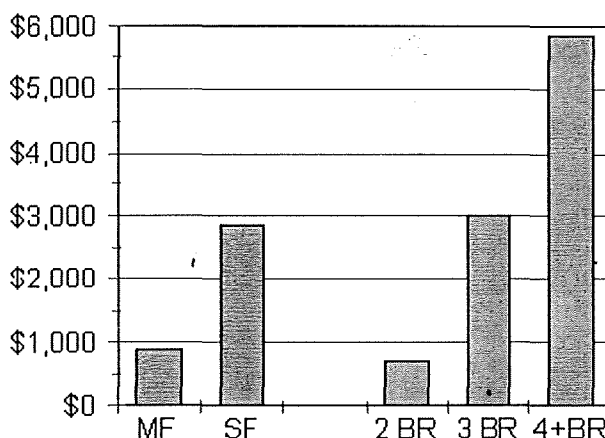
**Table 20**  
**SCHOOL NET COST PER DWELLING UNIT**

| Type of Unit           | Students/<br>Unit | Net Cost/<br>Student<br>Station | Net Cost/<br>Unit |
|------------------------|-------------------|---------------------------------|-------------------|
| Single-Family Detached | 0.325             | \$8,805                         | \$2,862           |
| Multi-Family           | 0.101             | \$8,805                         | \$889             |
| Mobile Home            | 0.062             | \$8,805                         | \$546             |
| Up to 2 Bedrooms       | 0.082             | \$8,805                         | \$722             |
| 3 Bedrooms             | 0.341             | \$8,805                         | \$3,003           |
| 4 Bedrooms +           | 0.666             | \$8,805                         | \$5,864           |

Source: Students per unit from Table 5; net cost per student station from Table 19.

Under the typical assessment mechanism used by the County for other types of impact fees, all new units of the same housing type are assessed the same fee, regardless of size. Under the alternative mechanism, the fees would vary by the number of bedrooms, without regard to unit type. Figure 3 illustrates the difference between fees by housing type and by bedrooms. Mobile homes are not depicted in Figure 3, since the fee for mobile home parks would be assessed on a per space basis under both alternatives, and mobile homes on individual lots would be assessed the same as single-family under the unit type approach.

**Figure 3**  
**POTENTIAL FEES**



To assess fees based on the number of bedrooms, a practical consideration is how to define and identify a bedroom. Bedrooms must comply with building code requirements for emergency egress, so identifying bedrooms is something that is already done in the permit review process, although some judgement is involved. As noted earlier, Broward, Lake and Martin Counties all charge by bedroom for school impact fees. Lake County's land development code contains the following approach to defining a bedroom:

The building official makes all determinations as to what constitutes a "sleeping room" or a "bedroom." The building official takes into consideration the following factors when making such determination:

1. The presence or absence of a closet;
2. The presence or absence of a smoke detector;
3. Whether the room has direct access or access via a hallway to a restroom as opposed to having to go through a separate room to get to a restroom.
4. The total number of bedrooms/sleeping rooms;

5. The square footage of the room;
6. The total square footage of the house/building as a whole;
7. Whether the construction plans depict an egress window; and/or
8. Any other factor(s) the building official deems relevant in making his determination

While determining the number of bedrooms from construction plans is somewhat more subjective than determining housing type or square footage, it is something that is already done and is not an insurmountable obstacle to assessing school impact fees based on the number of bedrooms.

A final policy issue that arises when fees are based on a measure of unit size, is whether to charge for residential additions. Broward County, for example, assesses park and school impact fees on the basis of the number of bedrooms, but does not charge for residential additions that add new bedrooms. The most consistent position would be to charge for any residential addition that has the net effect of adding a bedroom, as well as for any replacement structure that contains more bedrooms than the structure being replaced. On the other hand, assessing residential additions would entail some administrative costs.

In sum, there are two reasonable assessment options that are supported by the data and are administratively feasible. Whether to assess school impact fees by housing type or to assess fees based on the number of bedrooms is a policy decision for the Board of County Commissioners.

## Revenue Potential

The amount of revenue that could be generated from school impact fees if adopted at the maximum levels calculated in this report can be estimated based on recent local trends in residential construction. As shown in Table 21, there have been about 4,200 single-family units and about 3,300 multi-family units constructed annually in Lee County over the past five years.

**Table 21**  
**RESIDENTIAL BUILDING PERMITS, 1996-2000**

|                            | 1996         | 1997         | 1998         | 1999         | 2000         | Average      |
|----------------------------|--------------|--------------|--------------|--------------|--------------|--------------|
| Unincorporated             | 2,539        | 2,252        | 2,433        | 2,809        | 3,131        | 2,633        |
| Fort Myers                 | 43           | 45           | 72           | 120          | 163          | 89           |
| Cape Coral                 | 1,041        | 1,189        | 1,420        | 1,719        | 1,753        | 1,424        |
| Sanibel                    | 54           | 48           | 70           | 74           | 105          | 70           |
| <b>Total Single-Family</b> | <b>3,677</b> | <b>3,534</b> | <b>3,995</b> | <b>4,722</b> | <b>5,152</b> | <b>4,216</b> |
| Unincorporated             | 1,968        | 2,246        | 3,088        | 3,022        | 3,395        | 2,744        |
| Fort Myers                 | 7            | 68           | 743          | 772          | 128          | 344          |
| Cape Coral                 | 46           | 39           | 219          | 288          | 445          | 207          |
| Sanibel                    | 12           | 6            | 0            | 12           | 0            | 6            |
| <b>Total Multi-Family</b>  | <b>2,033</b> | <b>2,359</b> | <b>4,050</b> | <b>4,094</b> | <b>3,968</b> | <b>3,301</b> |

Source: U.S. Census Bureau website (<http://www.census.gov/const/www/permitsindex.html>)

Assuming that new residential development continues at the pace of the last five years, school impact fees could generate about \$15 million annually, as shown in Table 22. Given that recent growth rates

may not be maintained into the future, however, it may be prudent to assume somewhat lower annual revenues.

**Table 22**  
**POTENTIAL ANNUAL SCHOOL IMPACT FEE REVENUE**

| <b>Housing Type</b> | <b>New Units</b> | <b>Maximum Fee/Unit</b> | <b>Potential Revenue</b> |
|---------------------|------------------|-------------------------|--------------------------|
| Single-Family       | 4,216            | \$2,862                 | \$12,066,000             |
| Multi-Family        | 3,301            | \$889                   | \$2,935,000              |
| <b>Total</b>        | <b>7,517</b>     |                         | <b>\$15,001,000</b>      |

*Source:* Annual new single-family and multi-family units from Table 21; maximum fee per unit from Table 20.

LEE COUNTY ORDINANCE 01-\_\_\_\_\_

AN ORDINANCE AMENDING CHAPTER 2 OF THE LEE COUNTY LAND DEVELOPMENT CODE, ARTICLE VI (IMPACT FEES) TO ENACT AN ORDINANCE APPLICABLE COUNTYWIDE TO IMPOSE SCHOOL IMPACT FEES ON DEVELOPMENT WITHIN THE INCORPORATED AND UNINCORPORATED AREAS OF LEE COUNTY; PROVIDING FOR A DIVISION 6, SCHOOL IMPACT FEE, PROVIDING FOR STATUTORY AUTHORITY; APPLICABILITY; INTENT AND PURPOSE, DEFINITIONS; IMPOSITION OF FEE; COMPUTATION OF FEE; INDEPENDENT FEE CALCULATIONS; PAYMENT; TRUST FUND ACCOUNTS; USE OF FUNDS; REFUNDS; PREPAYMENT OF FEES; EXEMPTIONS; CREDITS; APPEALS; ENFORCEMENT, PENALTY, FURNISHING FALSE INFORMATION; AND PROVIDING FOR CONFLICTS OF LAW, SEVERABILITY, CODIFICATION, SCRIVENERS ERRORS, AND EFFECTIVE DATE.

WHEREAS, as a Charter County, Lee County has the power to impose impact fees countywide to fund capital facilities provided on a countywide uniform basis; and

WHEREAS, the County desires to raise funds to pay for the public school system, which serves the municipalities as well as the unincorporated areas of the County; and

WHEREAS, it is the County's intent to have the School Impact Fee Ordinance applied countywide; and

WHEREAS, the Florida Constitution requires that adequate provision be made by law for a uniform system of free public schools; and

WHEREAS, Lee County is constituted as a separate school district, and the School Board is empowered by law to operate, control, and supervise all free public schools in the district; and

WHEREAS, the School Board of Lee County is required under Florida Statutes, Chapter 235, to coordinate the school site planning and selection with the County's Comprehensive Plan; and

WHEREAS, Lee County has agreed to adopt an ordinance providing for the imposition of a school impact fee in Lee County for the benefit of the School District of Lee County; and

WHEREAS, Florida Statutes, Section 235.193, requires the coordination and planning between school boards and the county commission to ensure that plans of public education facilities are coordinated in time and place with plans for residential development and other necessary public services; and

WHEREAS, in order to maintain appropriate levels of service, Lee County District School System must expand the capacity of the system to accommodate new development in the District. This expansion of capacity is necessary to promote and protect the public health, safety, and welfare of the residents of Lee County; and

WHEREAS, under Florida Statutes, Section 163.3202, Florida counties are encouraged to adopt innovative land development regulations that include, among other provisions, impact fees; and

WHEREAS, the imposition of a school impact fee is one method of ensuring that new development bears a proportionate share of the capital cost of educational facilities necessary to accommodate new development; and

WHEREAS, the imposition of a school impact fee in Lee County must be pursued in order to promote and protect the public health, safety, and welfare; and

WHEREAS, the proposed impact fee is derived from and based upon, but does not exceed, the cost of providing for the acquisition of new school sites, the expansion and equipping of existing educational facilities, and the construction and equipping of new educational facilities necessitated by new development for which the impact fee is imposed; and

WHEREAS, the educational impact fee study prepared for the School District of Lee County by Duncan Associates in association with Dr. James C. Nicholas, sets forth a reasonable methodology and analysis for the determination of impact of new residential development on the need for and cost of additional educational facilities in the Lee County School District.

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

**SECTION ONE: AMENDMENT TO LAND DEVELOPMENT CODE CHAPTER 2**

Lee County Land Development Code Chapter 2, Article VI, is amended to adopt a new Division pertaining to the imposition of countywide school impact fees as follows:

**CHAPTER 2**  
**ARTICLE VI. IMPACT FEES**  
**DIVISION 6. SCHOOL IMPACT FEES**

**Sec. 2-400. Statutory authority.**

The Board of County Commissioners has the authority to adopt this division pursuant to article VIII of the constitution of the state, F.S. ch. 125 and F.S. §§ 163.3201, 163.3202 and 380.06(16).

**Sec. 2-401. Applicability of division.**

This division applies in the unincorporated area of the county and within all municipalities within the county. Municipalities are required to collect impact fees from new development within their jurisdictions.

**Sec. 2-402. Intent and purpose of division.**

- (a) This division is intended to implement and be consistent with the Lee Plan.
- (b) The purpose of this division is to regulate the use and development of land to ensure that new development bears a proportionate share of the cost of capital expenditures necessary to provide adequate public educational facilities in the county as contemplated by the Lee Plan.

**Sec. 2-403. Definitions.**

The following words, terms and phrases, when used in this division, will have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Building official* means that officer who is so defined in chapter 6, article II. Within any municipality, the term "building official" means that person whose duties and authority are similar to that of the county's building official, regardless of the title given such person.

*Building permit* means an official document or certification issued by the building official authorizing the construction, alteration, enlargement, conversion, reconstruction, remodeling, rehabilitation, erection, demolition, moving or repair of a residential building or structure. In the case of a change in use or occupancy of an existing building or structure, the term specifically includes certificates of occupancy and occupancy permits, as those permits are defined or required by county ordinance. The terms "building permit" and "certificate of occupancy permit" also mean those municipal permits that are equivalent to these county permits, regardless of the names by which they are called within a municipality.



*Capital improvement* means land acquisition, equipment purchase, site improvements, off-site improvements and construction associated with new or expanded public elementary or secondary schools and support facilities. Capital improvements do not include maintenance and operations.

*County manager* means the county manager, or the county official that the county manager may designate to administer the various provisions of this division.

*Duplex* has the same meaning given it in chapter 34.

*Feepayer* means a person applying to the county, or to any participating municipality, for the issuance of a building permit, mobile home move-on permit or recreational vehicle development order for a type of land development activity specified in section 2-405(a), regardless of whether the person owns the land.

*Lee Plan* means the county comprehensive plan adopted pursuant to F.S. ch. 163, as amended.

*Mobile home* has the same meaning given it in chapter 34. Mobile homes not located within an established mobile home park will be treated as a single-family residence for impact fee calculation purposes.

*Mobile home move-on permit* means an official document or certification authorizing any purchaser, owner, mover, installer or dealer to move a mobile home onto a particular site. It also includes a permit authorizing the tie down of a park trailer in a mobile home zoning district.

*Multiple-family building* has the same meaning given it in chapter 34.

*Park trailer* has the same meaning given it in chapter 34.

*Private recreational facility* has the same meaning given it in chapter 34.

*Recreational vehicle* has the same meaning given it in chapter 34.

*Recreational vehicle development order* means a final development order, as that term is used in chapter 10, permitting the placement of recreational vehicles on any area of land. It also means those municipal permits or orders equivalent to a recreational vehicle development order, regardless of the names by which those permits are called within a municipality.

*Single-family residence* has the same meaning given it in chapter 34.

*Townhouse* has the same meaning given it in chapter 34.

*Two-family attached* has the same meaning given it in chapter 34.

**Sec. 2-404. Imposition.**

- (a) Except as provided in section 2-412, any person who seeks to develop land by applying to the county or any municipality for the issuance of a building permit, mobile home move-on permit or recreational vehicle development order for the purpose of making an improvement to land for one of the uses specified in section 2-405, is required to pay a school impact fee in the manner and amount set forth in this division.
- (b) No building permit, mobile home move-on permit or recreational vehicle development order for any activity requiring payment of an impact fee pursuant to section 2-405 may be issued by the county or any municipality until the school impact fee required by this division has been paid.
- (c) In the case of structures, mobile homes or park trailers that are moved from one location to another, a school impact fee will be collected for the new location if the structure, mobile home or park trailer constitutes one of the land development uses listed in section 2-405, regardless of whether school impact fees had been paid at the old location, unless the use at the new location is a replacement of an equivalent use. If the structure, mobile home or park trailer so moved is replaced by an equivalent use, no school impact fee is owed for the replacement use. In every case, the burden of proving past payment of school impact fees or equivalency of use rests with the feepayer.

**Sec. 2-405. Computation of amount.**

- (a) At the option of the feepayer, the amount of the school impact fee may be determined by the schedule set forth in this subsection. The reference in the schedule to mobile home/RV park site refers to the number of mobile home or recreational vehicle sites that are permitted by the applicable final development order.

**OPTION ONE: SCHOOL IMPACT FEE CHARGED BY LAND USE TYPE**

| <i>Land Use Type</i>   | <i>School Impact Fee<br/>per Unit</i> |
|--|---------------------------------------|
| Single-family residence or mobile home not in mobile home park     | \$2,862                               |
| Multiple-family building, duplex, two-family attached or townhouse | \$889                                 |
| Mobile home pad site or recreational vehicle park site             | \$546                                 |

## OPTION TWO: SCHOOL IMPACT FEE CHARGED BY NUMBER OF BEDROOMS

| <i>Land Use Type</i>  | <i>School Impact Fee<br/>per Unit</i> |
|---|---------------------------------------|
| Single-family residence, multiple-family building, duplex, two-family attached, townhouse or mobile home not in mobile home park: |                                       |
| Up to 2 bedrooms  | \$722                                 |
| 3 bedrooms  | \$3,003                               |
| 4 or more bedrooms  | \$5,864                               |
| Mobile home pad site or recreational vehicle park site  | \$546                                 |

- (b) When change of use, redevelopment or modification of an existing use requires the issuance of a building permit, mobile home move-on permit or recreational vehicle development order, the school impact fee will be based upon the net increase in the impact fee for the new use as compared to the previous use. However, no impact fee refund or credit will be granted if a net decrease results.
- (c) If the school impact fee has been calculated and paid based on error or misrepresentation, it will be recalculated and the difference refunded to the original feepayer or collected by the county, whichever is applicable. If school impact fees are owed, no municipal or county permits of any type may be issued for the building or structure in question, or for any other portion of a development of which the building or structure in question is a part, until impact fees are paid. The county may bring any action permitted by law or equity to collect unpaid fees.
- (d) The impact fee schedule set forth in Section 2-405(a) will be administratively reviewed and re-analyzed every three years. As a result of this review, county staff is authorized and directed to pursue amendments to the impact fee schedule consistent with the results of the review and re-analysis.

[NOTE: The following subsections will be required if Option Two, School Impact Fee Charged by Number of Bedrooms, is selected.]

- (e) The addition of bedrooms to a property subject to the terms of this division will require the payment of the additional school impact fee resulting from the difference between the amount due for the property as it existed prior to the addition and the amount due as a result of the increased number of bedrooms (to a maximum of four).
- (f) The building official will make all determinations as to what constitutes a bedroom. In addition to the number of rooms identified on the building plans submitted for

plan review, the building official may also determine that other rooms constitute a bedroom for the purposes of the payment of the school impact fee.

**Sec. 2-406. Independent fee calculation.**

- (a) If the person applying for a building permit, mobile home move-on permit or recreational vehicle development order opts not to follow the fee schedule set forth in section 2-405 of this division, then that person has the option to submit an independent fee calculation study in accordance with this section.
- (b) Submittal of an independent fee calculation study by the feepayer does not exempt the feepayer from paying the school impact fees prior to the issuance of a building permit, mobile home move-on permit, or recreational vehicle development order as those terms are defined.
- (c) The feepayer must inform the county manager and the superintendent of schools, in writing, of the intent to submit an independent fee calculation study before the issuance of the permits described in subsection 2-406(a). The county manager will then schedule a pre-application meeting with the feepayer.
- (d) Before beginning the independent fee calculation study, the feepayer or representative will attend a pre-application meeting with the county manager and superintendent of schools. The purpose of the pre-application meeting is to discuss the procedures for preparation of the independent fee calculation study, the methodology to be employed, and the standards to be met.
- (e) The county manager will prepare a written summary of the results of the pre-application meeting regarding methodology, required forms, documentation or procedures (which may not constitute a waiver of ordinance provisions). The county manager will send a copy of this summary to the feepayer and the Lee County School Board. The feepayer must provide written confirmation as to receipt and acceptance of the summary to the county manager.
- (f) If the feepayer wishes to waive the pre-application meeting, it must be done in writing. Feepayers who waive the pre-application meeting waive the right to raise methodological or procedural issues regarding the study at a subsequent time.
- (g) The independent fee calculation study must measure the impact of the specific development proposed on the Lee County Public Schools educational system.
- (h) The independent fee calculation study must follow the methodologies and formats agreed upon during the pre-application meeting and be in accord with the documentation or methodology required by this section.

- (i) The methodology used to prepare the independent fee calculation must be consistent with the methodology used to develop the generalized impact fee schedule and verify that the projected impact on the Lee County Public Schools educational system of the proposed development is less than the projected impact used in establishing the fee schedule in section 2-405 because of the uniqueness in character of the proposed development.
- (j) The independent fee calculation study must be prepared and presented by a qualified professional. The methodology must be consistent with best professional practice and support the central claim of the study. The study must provide all necessary supporting documentation and information. Failure to adhere to best professional practice standards is a basis for rejection of the study. The feepayer's submission must certify that the study complies with best professional practices.
- (k) The feepayer must submit the study to the county manager who will forward the study to the Lee County School Board.
- (l) The county manager will have 30 days from the date the study is received to provide written notice to the feepayer of deficiencies or defects in the study, to approve the study and authorize an appropriate fee adjustment or to reject the conclusions of the study and deny the fee adjustment. This notice must be sent certified mail, return receipt requested. If this notice is not given within 30 days, the study will be considered sufficient and the fee adjusted as if the study had been approved. If the study is found defective or deficient the 30 day review period will begin again with the submission of a new or modified study. If the feepayer does not respond to the county manager regarding a finding of deficiency within 30 days of the date notice of a deficiency is sent, the county manager will consider the independent fee calculation study withdrawn and all claims to a fee adjustment waived. All permits described in subsection 2-404(a) subsequently applied for must be accompanied by the school impact fees established by the fee schedules. The 30 day sufficiency review will begin when the county manager receives and date stamps the independent fee calculation study.
- (m) During the initial 30-day period, the Lee County School Board will also review the independent fee calculation study for sufficiency, methodology, technical accuracy, and findings. Thereafter, the School Board will make recommendations concerning the appropriate amount of the school impact fees to the county manager. Once the county approves the independent fee calculation study and establishes the amount of the impact fee adjustment, the adjusted school impact fee will relate back to the date of the pre-application meeting. Fees paid after the pre-application meeting according to the fee schedule will be adjusted to reflect the fee approved by the county pursuant to the study. The feepayer will receive a refund for the difference between the fee schedule and the approved fee established by the study. Refunds will be in the form of cash or school impact fee credits, depending on the original

before preparing any appraisal for valuation of land to be dedicated. The following documents must be submitted to support an application for school impact fee credits applicable to land dedication for approved school sites:

- (a) a survey of the land to be dedicated, certified by a professional land surveyor or a registered land surveyor, each of whom are licensed in the state;
- (b) a specimen of the deed that will be used to convey title to the Lee County School District;
- (c) an ALTA Form B title insurance policy in an amount equal to the approved value of the credits to be issued. The company issuing the policy must be satisfactory to the county attorney. The title insurance policy must verify that the proffered deed will convey unencumbered fee simple title to the Lee County School District;
- (d) property appraisals prepared by qualified professionals;
- (e) a document from the tax collector stating the current status of the property taxes; and
- (f) a resolution of the Lee County School Board stating that the proposed land dedication is acceptable to the school district for use as a future public educational facility.
- (g) In preparing their reports, appraisers will value the land to be dedicated as follows: If the property is subject to a valid agreement, zoning approval or development order prescribing a different valuation, then that document will control the date of valuation. If the dedication is made pursuant to a condition of zoning approval and the zoning condition does not prescribe otherwise, then the property value will be based upon the value of the property as it existed prior to the approval containing the condition of dedication. If the land to be dedicated is not pursuant to a valid agreement, zoning approval or development order prescribing the valuation of property, the property will be valued at the time the School Board agrees to accept the conveyance.
- (h) In all events, the county retains the right to independently determine the amount of credit to be recommended by securing other engineering and construction cost estimates or property appraisals for the proposed land dedication. In every case, school impact fee

credits must be calculated so as to be consistent with F.S. § 380.06(16).

(b) Timing of Credit Issuance.

- (1) Credits for construction will be created when the construction is completed and accepted by the Lee County School District or when the feepayer posts a surety, as provided in this subsection, for the costs of construction. Security in the form of cash, a performance bond, irrevocable letter of credit or escrow agreement must be posted with the School Board and made payable to the School Board in an amount equal to 110 percent of the full cost of such construction. If the educational facility construction project will not be constructed within one year of the acceptance of the offer by the School Board, the amount of the security will be increased by ten percent, compounded for each year of the life of the surety.
- (2) Credits for land dedication will be created when the title to the land has been accepted by the School Board of Lee County and recorded in the official records of the clerk of circuit court in the county. 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 Records Book.

(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 six years of the date created.
- (3) If school impact fees are increased before credits are used, the unused transferable 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. If school impact fees are decreased, unused transferable credits will not decrease in value. Credits not used within six years will be cancelled by the Building Official. Any person who accepts credits in exchange for the dedication of land or improvements does so subject to the limitations on the use, duration, non-refund provisions and other restrictions prescribed in this division.

- (d) Any person who offers land or improvements in exchange for credits may withdraw the offer of dedication prior to the transfer of legal title to the land or improvements in question, and pay the full school impact fees required by this division.
- (e) Credits must be claimed by the feepayer at the time of the application for a residential building permit, mobile home move-on permit or recreational vehicle development order. Credits not so claimed will be deemed waived by the feepayer.
- (f) Once used, credits must be cancelled and may not be reestablished even if the permit for which they were used expires without construction.

#### **Sec. 2-414. Appeals.**

Unless otherwise provided herein, decisions made by the county manager or his designee, or by the building official, in the course of administering this division may be appealed in accordance with those procedures set forth in chapter 34 of the Lee County Land Development Code for appeals of administrative decisions. Each municipality and the School Board are bound by the results of the administrative appeal. If the administrative appeal decision is further appealed to the circuit court by another person, the appeal will be defended by the county, at its expense, unless the municipality elects to provide the defense of the case.

#### **Sec. 2-415. Enforcement of division; penalty; furnishing false information.**

A violation of this division is punishable according to section 1-5; however, in addition to or in lieu of any criminal prosecution, the county, or any feepayer, has the power to sue for relief in civil court to enforce the provisions of this division. Knowingly furnishing false information to the county manager, the building official or any other official who is charged with the administration of this division on any matter relating to the administration of this division constitute a violation thereof.

#### **Secs. 2-416 - 2-419. Reserved.**

### **SECTION TWO: 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 THREE: SEVERABILITY**

It is the Board of County Commissioner's intent that if any section, subsection, clause or provision of this ordinance is deemed invalid or unconstitutional by a court of competent jurisdiction, such portion will be considered a separate provision and will not



affect the remaining provisions of this ordinance. The Board of County Commissioners further declares its intent that this ordinance would have been adopted if such invalid or unconstitutional provision was not included.

#### **SECTION FOUR: 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 Manager, or his designee, without the need for a public hearing.

#### **SECTION FIVE: EFFECTIVE DATE**

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

**THE FOREGOING ORDINANCE** was offered by Commissioner \_\_\_\_\_, who moved its adoption. The motion was seconded by Commissioner \_\_\_\_\_ and, being put to a vote, the vote was as follows:

|                   |       |
|-------------------|-------|
| ROBERT P. JANES   | _____ |
| DOUGLAS ST. CERNY | _____ |
| RAY JUDAH         | _____ |
| ANDREW W. COY     | _____ |
| JOHN E. ALBION    | _____ |

**DULY PASSED AND ADOPTED THIS** \_\_\_\_ day of \_\_\_\_\_, 2001.

ATTEST:  
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA

By: \_\_\_\_\_

Deputy Clerk

By: \_\_\_\_\_

Chairman

APPROVED AS TO FORM:

By: \_\_\_\_\_

Donna Marie Collins  
Office of County Attorney

method of payment. There will be no refund of fees paid prior to the pre-application meeting. If the feepayer waives the pre-application meeting, the adjusted school impact fee will relate back to the date the study is found sufficient for review by the director.

- (n) It is the feepayer's responsibility to claim a reduction in school impact fees on the basis of an approved independent fee calculation study, at the time of application for a building permit, mobile home move-on permit or recreational vehicle development order. No claim to a reduced fee will be accepted in advance of the approval of an independent fee study where one is required. The feepayer must present documentation enabling the staff of the Division of Codes and Building Services or the Building Official of the municipality to verify this claim. Where the feepayer waived the pre-application meeting, fees paid according to the school impact fee schedule after the study is found sufficient for review will be adjusted to reflect the fee approved by the County pursuant to the study.

#### **Sec. 2-407. Payment.**

- (a) The feepayer must pay the school impact fee required by this division to the building official prior to the issuance of the building permit, mobile home move-on permit, mobile home park development order, or recreational vehicle park development order for which the fee is imposed, except as provided in section 2-412. No building permit, mobile home move-on permit or recreational vehicle park development order may be issued by the county or by any municipality until the impact fee has been paid, except as provided in section 2-412.
- (b) In lieu of cash, up to 100 percent of the school impact fee may be paid with credits created in accordance with the provisions of subsection 2-413.
- (c) School impact fees collected by municipalities must be remitted to the County at least monthly. The municipality must also maintain records for each payment, the name of the feepayer, the date of payment, the location and description of the property for which the fee was paid, the land use and number of dwelling units for which fees were paid, and the application of any credits or adjustments to the fees otherwise due. This information must be provided to Lee County and the school district for expenditure purposes.
- (d) The county will remit to the School Board, within thirty days following the end of each calendar quarter, all school impact fees collected.
- (e) All funds collected pursuant to this division will be properly identified by the School Board and promptly recorded in the school impact fee capital fund and used solely for the purposes specified in this division.

#### **Sec. 2-408. Trust fund accounts.**

There is hereby established a school impact fee capital fund account. Funds withdrawn from this account must be used in accordance with the provisions of section 2-409.

#### **Sec. 2-409. Use of funds.**

- (a) Funds collected from school impact fees must be used for the purpose of capital improvements for educational facilities. Except as provided in subsection (c) of this section, school impact fee collections, including any interest earned thereon, must be used exclusively for capital improvements for educational facilities. These impact fee funds must be segregated from other funds and be expended as provided for in this section. Funds may be used or pledged in the course of bonding or other lawful financing techniques, so long as the proceeds raised thereby are used for the purpose of capital improvements for educational facilities. If these funds or pledge of funds are combined with other revenue sources in a dual or multipurpose bond issue or other revenue-raising device, the proceeds raised thereby must be divided and segregated such that the amount of the proceeds reserved for educational facility purposes bears the same ratio to the total funds collected that the school impact fee funds used or pledged bear to the total funds used or pledged.
- (b) Each fiscal period the Lee County School Board will present a proposed capital improvements program for educational facilities to the Board of County Commissioners. The program must assign funds, including accrued interest, from the school impact fee capital fund to specific educational facility projects. School impact fee funds may only be expended by the School Board according to a capital improvements program that has been approved by the Board of County Commissioners. All funds must be spent in a manner that will benefit the feepayer.

For example, so long as the School Board maintains a school choice system where students must attend a school within the zone where they reside, then all funds must be spent within the zones where they are collected. Fees collected from one school choice zone may be spent on a capital improvement in another school choice zone if it can be demonstrated that the improvement will benefit the feepayers in the original school choice zone. For example, the construction of magnet schools and administrative facilities that provide benefits across school choice zones.

At least every three years, the School Board must submit to the County a report summarizing all expenditures of funds and demonstrating that all expenditures comply with requirements of the rational nexus test as defined in Florida case law. The first report will be due three years from the effective date of this ordinance.

- (c) The county, and any municipality collecting school impact fees are entitled to charge the applicant of a permit or development order for which school impact fees are payable under this division, an administrative fee equal to up to three percent of the school impact fees it collects. The administrative fee must be used to offset the costs of administering this division. The administrative fee must be paid in cash.

**Sec. 2-410. Refund of fees paid.**

- (a) If a building permit, mobile home move-on permit or recreational vehicle development order expires, is revoked or voluntarily surrendered, and therefore voided, and no construction or improvement of land (including moving a mobile home onto land) has commenced, then the fee payer is entitled to a refund of the portion of the school impact fee that was paid in cash as a condition for its issuance. A three percent administrative fee will be retained as an administrative fee to offset the costs of processing the refund. This administrative fee is in addition to the three percent administrative fee charged at the time of fee payment. No interest will be paid to the fee payer on refunds due to noncommencement.
- (b) Funds that have not been expended or encumbered by the end of the calendar quarter immediately following six years from the date the school impact fee was paid, will be returned to the fee payer, with interest at the rate of six percent per annum, upon application of the fee payer within 180 days of that date.
- (c) After consulting with the county attorney, the county manager will make all decisions on requests for refunds.

**Sec. 2-411. Pre-payment of Fees.** Prepayment of school impact fees will be accepted by the County or any municipality in accordance with the following:

- (a) Prepayment is specifically required or permitted by: a development order adopted pursuant to F.S. ch. 380; An agreement made by the county pursuant to its home rule powers granted by article VIII of the constitution of the state and F.S. § 125.01; A development agreement made pursuant to F.S. §§ 163.3220-163.3243, the Florida Local Government Development Agreement Act.
- (b) Prepayment is made by certified check or cashiers check accompanied by a letter identifying the amount to be prepaid and document allowing prepayment delivered to the building official.

**Sec. 2-412. Exemptions.**

- (a) The following are exempted from payment of the school impact fee:
  - (1) The construction of a non-residential building or structure.

- (2) Dwelling units in subdivisions, mobile home or manufactured housing parks, and multi-family dwellings that are operated as a community for older persons, in compliance with the terms and provisions of the Federal Fair Housing Act, Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988 and the Housing for Older Persons Act of 1995, 42 USC, § 3601 through 3619, that also prohibit persons under the age of 18 years from residing within the dwelling units on the property as a permanent resident. This restriction must be evidenced by a recorded declaration of covenants and restrictions that are not subject to revocation or amendment for a period of at least 30 years from the date of recording. The covenants and restrictions must run with the land.
- (3) Alteration or expansion of an existing building or use of land, where no additional living units will be produced and where the use is not changed.
- (4) The construction of accessory buildings or structures that will not produce additional living units.
- (5) The replacement of an existing lawfully permitted building, mobile home, park trailer or structure where the original permit was issued prior to (effective date of ordinance), provided that no additional living units will be produced than those produced by the original use of the land. However, if any such building, mobile home, park trailer or structure is destroyed, demolished or removed from the property voluntarily or involuntarily, then any replacement will be required to pay the appropriate impact fee, unless:
  - a. a lawful permit is issued for the replacement within 5 years after such destruction, demolition or removal; and,
  - b. construction commences within said 5-year period; and
  - c. such construction continues in good faith without abandonment, expiration or loss of permits.
- (6) An amendment to a recreational vehicle park development order, provided that the amendment does not increase the number of recreational vehicle park units permitted.
- (7) A building permit, mobile home move-on permit or recreational vehicle park development order that does not result in an additional living unit.
- (8) Any development that has already fully mitigated its school impacts as contemplated by this section.

- (b) Exemptions must be claimed by the feepayer at the time of application for a building permit, mobile home move-on permit or recreational vehicle park development order. Exemptions not so claimed are deemed waived by the feepayer.
- (c) The county manager, after consulting with the county attorney, has sole authority to determine whether an exemption described herein is applicable. The county manager's decision may only be appealed in Circuit Court.

#### **Sec. 2-413. Credits.**

Capital improvements for educational facilities may generate school impact fee credits in amounts to be established pursuant to subsection (a)(2) of this section. The right to determine whether a capital improvement will be approved for credit purposes lies exclusively with the county.

- (a) Conditions of credit approval. Credit for educational facility construction or land dedication is subject to the following:
  - (1) A request submitted for educational facility capital improvements by the feepayer must include cost estimates prepared by qualified professionals to be used by the county manager in determining the amount of the credit the county manager will recommend be authorized by the Board of County Commissioners.
  - (2) Credits for contributions, payments or construction made prior to the effective date of this section will be acknowledged by the county. The person or entity that provided the contribution, payment or construction must file an application for credit within one year of the effective date of this section. No credit will be issued on applications filed thereafter. The application for credit must be submitted and will be reviewed as provided in this section. The amount of the credit for a contribution, payment or construction made prior to the effective date of this section will be the current value of the contribution, payment or construction, less the total amount of school impact fees that would have been owed for the building permits already issued for the project had those permits been subject to the fees specified in section 2-405. The current value will be determined using the Engineering News-Record Construction Cost Index, or an equivalent index if such index is discontinued. Credits for payments or contributions prior to the effective date of this section will not exceed that value of the impact fee required under this division.
  - (3) Land Dedication. Any person seeking credits for dedication of land must meet with the County Attorney, the School Board Attorney and County Lands staff to seek agreement on appraisal methodology and assumptions