



**Department of Economic  
and Development Services**

**Memorandum**

**To:** Board of County Commissioners  
**From:** Holly Parrish, Director, Economic and Development Services  
**Date:** November 16, 2016  
**Re:** Discussion Regarding Extension of the Transportation Impact Fee Moratorium

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**Issue:** Extension of Transportation Impact Fee Moratorium

**Background:** On July 22, 2008, the Board of County Commissioners adopted Ordinance 2008-30 which imposed a transportation impact fee on new construction. On April 28, 2009, the Board imposed a two-year moratorium on the collection of those fees in order to stimulate new residential and commercial construction activity.

The moratorium was extended on December 14, 2010, for a period of six months, and further extended for one year periods on June 28, 2011, June 30, 2012, June 30, 2013, and June 30, 2014. On June 30, 2015, the moratorium was extended for a period of six months and further extended on December 31, 2015 for one year.

Staff is looking for direction on whether to proceed with further extension of the moratorium. In order to extend the moratorium, the ordinance (Attachment A) must be adopted.

In order to consider implementation of a transportation impact fee, the impact fee study must be updated. (The cost of the study has been included in the FY 16/17 budget.) Full implementation, should the Board elect to proceed with the impact fee study, is anticipated to occur within one year.

Another option to consider is the implementation of an Impact Fee Deferral Program. This program could include all development fees associated with a building permit for new construction (transportation, school, utility) and would allow developers to pay fees in installments instead of paying the full amount upon issuance of a building permit. A summary of this program is provided as Attachment B.

**Recommendation/Action:** Adoption of the moratorium ordinance and further direction on how to proceed.

**ORDINANCE NO. 2016-\_\_\_\_\_**

**AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF CLAY COUNTY, FLORIDA, RELATING TO ORDINANCE NO. 2008-30 WHICH PROVIDES FOR THE IMPOSITION OF TRANSPORTATION IMPACT FEES ON NEW ROAD IMPACT CONSTRUCTION IN ORDER TO EXTEND A MORATORIUM INITIALLY IMPOSED PURSUANT TO CLAY COUNTY ORDINANCE NO. 2009-11 ON THE COLLECTION OF SUCH FEES AND EXTENDED BY ORDINANCE NO. 2010-55, AND FURTHER EXTENDED BY ORDINANCE NOS. 2011-21, 2012-19, 2013-8, AND 2014-13, 2015-14, AND 2015-34, WHICH MORATORIUM WILL OTHERWISE EXPIRE ON DECEMBER 31, 2016; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, on July 22, 2008, the Board of County Commissioners (the Board) adopted Ordinance No. 2008-30 which imposed a transportation impact fee (the Impact Fee) on new Road Impact Construction as that term is defined in Ordinance No. 2008-30; and,

**WHEREAS**, under Ordinance No. 2008-30, the collection of Impact Fees was deferred until January 1, 2009; and,

**WHEREAS**, on April 28, 2009, the Board imposed a moratorium on the collection of Impact Fees pursuant to Ordinance No. 2009-11, in order to stimulate new residential and commercial construction starts which might in turn create jobs for tradesmen and all associated with the construction industry in Clay County (the Moratorium); and,

**WHEREAS**, the duration of the Moratorium under Ordinance No. 2009-11 was for two years, from January 1, 2009, through December 31, 2010; and,

**WHEREAS**, on December 14, 2010, the Board extended the Moratorium pursuant to Ordinance No. 2010-55, in order to continue its efforts to stimulate new residential and commercial construction starts which might in turn create jobs for tradesmen and all associated with the construction industry in Clay County (the First Extension); and,

**WHEREAS**, the duration of the First Extension was for six months, from December 31, 2010, through June 30, 2011; and,

**WHEREAS**, on June 28, 2011, the Board further extended the Moratorium pursuant to Ordinance No. 2011-21, in order to continue its efforts to stimulate new residential and commercial construction starts which might in turn create jobs for tradesmen and all associated with the construction industry in Clay County (the Second Extension); and,

**WHEREAS**, the duration of the Second Extension was for one year, from June 30, 2011, through June 30, 2012; and,

**WHEREAS**, on June 26, 2012, the Board further extended the Moratorium pursuant to Ordinance No. 2012-19, in order to continue its efforts to stimulate new residential and commercial construction starts which might in turn create jobs for tradesmen and all associated with the construction industry in Clay County (the Third Extension); and,

**WHEREAS**, the duration of the Third Extension was for one year, from June 30, 2012, through June 30, 2013; and,

**WHEREAS**, on June 25, 2013, the Board further extended the Moratorium pursuant to Ordinance No. 2013-8, in order to continue its efforts to stimulate new residential and commercial construction starts which might in turn create jobs for tradesmen and all associated with the construction industry in Clay County (the Fourth Extension); and,

**WHEREAS**, the duration of the Fourth Extension was for one year, from June 30, 2013, through June 30, 2014; and,

**WHEREAS**, on May 27, 2014, the Board further extended the Moratorium pursuant to Ordinance No. 2014-13, in order to continue its efforts to stimulate new residential and commercial construction starts which might in turn create jobs for tradesmen and all associated with the construction industry in Clay County (the Fifth Extension); and,

**WHEREAS**, the duration of the Fifth Extension was for one year, from June 30, 2014, through June 30, 2015; and,

**WHEREAS**, on June 9, 2015, the Board further extended the Moratorium pursuant to Ordinance No. 2015-14, in order to continue its efforts to stimulate new residential and commercial construction starts which might in turn create jobs for tradesmen and all associated with the construction industry in Clay County (the Sixth Extension); and,

**WHEREAS**, the duration of the Sixth Extension was for six months, from June 30, 2015, through December 31, 2015; and,

**WHEREAS**, on December 8, 2015, the Board further extended the Moratorium pursuant to Ordinance No. 2015-34, in order to continue its efforts to stimulate new residential and commercial construction starts which might in turn create jobs for tradesmen and all associated with the construction industry in Clay County (the Seventh Extension); and,

**WHEREAS**, the duration of the Seventh Extension was for one year, from December 31, 2015, through December 31, 2016; and,

**WHEREAS**, the Board has determined that the Moratorium should be extended once again in order to stimulate new residential and commercial construction starts which might in turn create jobs for tradesmen and all associated with the construction industry in Clay County, and to stimulate the construction industry and local economy by providing opportunities for real estate buyers who might otherwise choose not to purchase new construction at this time; and

**WHEREAS**, the Board continues to study options to fund essential future transportation infrastructure capacity and needs additional time to complete the analysis.

**Be It Ordained by the Board of County Commissioners of Clay County:**

Section 1. The moratorium on the collection of Impact Fees which would otherwise be due pursuant to Ordinance No. 2008-30 for any Road Impact Construction, as initially imposed pursuant to Ordinance No. 2009-11 and as heretofore extended pursuant to Ordinance Nos. 2010-55, 2011-21, 2012-19, 2013-8, 2014-13, 2015-14, and 2015-34 and is further extended from December 31, 2016 through December 31, 2017.

Section 2. If any section, phrase, sentence or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

Section 3. This ordinance shall become effective as prescribed by Florida general law.

**DULY ADOPTED** by the Board of County Commissioners of Clay County, Florida, this 13<sup>th</sup> day of December, 2016.

BOARD OF COUNTY COMMISSIONERS  
CLAY COUNTY, FLORIDA

By: \_\_\_\_\_  
Diane Hutchings  
Its Chairman

ATTEST:

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S. C. Kopelousos  
County Manager and Clerk of the Board

## Background

The Board has been asked to consider establishing a program that would permit developers to pay impact fees in installments instead of paying the full amount upon issuance of a building permit. This report describes a recommended method of permitting deferred payment of the County's road impact fee, if reimposed by the Board, which substitutes a special assessment payable over a period *[twenty?]* years for the single payment impact fee. If the current interlocal agreement between the County and the School District for collection of educational impact fees is amended, the general approach described in this report could also be applied to those impact fees.

## Impact Fee Deferral Program

### Option for Deferred Payment

*Certificate of Acknowledgment for Development.* In order to participate in the deferred payment program for a specific development, the property owner would be required to execute a certificate of acknowledgment prior to development approval, certifying ownership of the property to be assessed and acknowledging that the impact fee deferral program complies with the special benefit and cost allocation requirements for imposition of a valid special assessment. Each certificate of acknowledgment would be recorded in the County's official records to provide notice of the special assessment to subsequent owners.

*Deferral Application for Specific Parcel.* Upon application for each building permit, the owner of each parcel of property within a development for which a certificate of acknowledgment has been recorded may request deferral of the impact fee otherwise payable upon issuance of the permit.

### Special Assessment

The impact fee will be replaced by a special assessment with an initial principal balance equal to the road impact fee that would otherwise be payable upon issuance of the building permit. The assessment will be payable over a period of *[twenty?]* years with interest at a rate equal to the County's rate of return on investments during the last full fiscal year.

Interest for the period beginning upon issuance of the building permit and ending on the next ensuing September 30 will be payable when the building permit is issued.

### Annual Special Assessment

Beginning with the ad valorem tax bill funding the next fiscal year, installments of the special assessment will be collected in *[twenty?]* annual installments. Each annual installment will be equal to the sum of the impact fee component, collection cost component and statutory discount amount described below.

*Impact Fee Component.* An amortization schedule will be prepared to amortize the special assessment over a period of *[twenty?]* years with interest with interest at a rate equal to the County's rate of return on investments during the last full fiscal year prior to issuance of the applicable

building permit. The schedule will identify the portions of each annual payment attributable to principal and interest. The impact fee component will be equal to the total annual payment becoming due in the next fiscal year.

*Collection Cost Component.* The collection cost component for each parcel will be computed for each fiscal year as the costs incurred by the County to collect the special assessment. Specifically, the amount will be calculated by (1) dividing (a) the impact fee component for such parcel by (b) the sum of the aggregate impact fee component for all parcels participating in the deferred impact fee program, and (2) multiplying the result by the total collection cost to be incurred by the County in connection with the deferred impact program during such fiscal year.

*Statutory Discount Amount.* The statutory discount amount for each parcel will be computed as the amount by which Section 129.01(2)(b) requires the County to discount reasonably anticipated receipts in connection with preparation of its annual budget. Specifically, the amount will be calculated by deducting (1) the sum of (a) the impact fee component, and (b) the collection cost component, from (2) the amount computed by dividing (a) the sum of (i) the impact fee component, and (ii) the collection cost component, by (b) 0.95.

*Revised Principal Balance.* Upon certification of the ad valorem tax roll for each fiscal year, the principal balance for each parcel will be recomputed by deducting that portion of the impact fee component to be collected on the ad valorem tax bill for such fiscal year that is attributable to principal, as calculated in the amortization schedule for such parcel, from the principal balance prior to certification.

*Optional Prepayment.* Property owners may elect to prepay the remaining balance of the special assessment at any time by paying the current principal balance.

### **Action Steps**

In order to implement an impact fee deferral program, it will be necessary to:

1. commission and complete a new road impact fee study;
2. revise or replace the County's current road impact fee ordinance (Ordinance No. 2008-30);
3. revise the County's current special assessment ordinance (Ordinance No. 89-95);
4. adopt an initial assessment resolution specifying details of the impact fee deferral program; and
5. adopt a final assessment resolution imposing the special assessment.