

**CLARK COUNTY PLANNING COMMISSION
MINUTES OF PUBLIC HEARING
THURSDAY, JULY 16, 2015**

Public Services Center
BOCC Hearing Room
1300 Franklin, 6th Floor
Vancouver, Washington

CALL TO ORDER

MORASCH: Good evening, and welcome to the July 16, 2015, Planning Commission public hearing on the Clark County Traffic Impact Fee Program Update. Can we have the roll call, please.

ROLL CALL VOTE & INTRODUCTION OF GUESTS

BARCA:	HERE
BLOM:	ABSENT
JOHNSON:	HERE
MORASCH:	HERE
QUIRING:	HERE
BENDER:	HERE

Staff Present: Gordy Euler, Program Manager; Matt Hermen, Planner III; Chris Cook, Prosecuting Attorney; Sonja Wisner, Administrative Assistant; Kathy Schroader, Office Assistant; and Cindy Holley, Court Reporter.

Guests: None.

GENERAL & NEW BUSINESS

A. Approval of Agenda for July 16, 2015

MORASCH: Thank you. Has everyone had a chance to review the agenda? If so, I'd take a motion to approve the agenda.

BARCA: Motion to **Approve**.

QUIRING: **Second**.

MORASCH: All in favor?

EVERYBODY: AYE

MORASCH: Opposed? Motion carries.

B. Approval of Minutes for May 21, 2015

MORASCH: Has everyone had a chance to review the minutes from the May 21 meeting? If so, I'd take a motion to approve the minutes.

JOHNSON: Motion to **approve** the minutes from May 2015.

BARCA: **Second.**

MORASCH: All in favor?

EVERYBODY: AYE

MORASCH: Opposed? Motion carries.

C. Communications from the Public

MORASCH: Now we're on to the item on our agenda where we invite members of the public to come and speak on a matter not on our printed agenda. So if there's anyone in the audience who would like to speak on an item not on the printed agenda, please come up to the microphone now. Seeing no one coming up, we will move on to the agenda item.

And our first and only public hearing item is the Clark County Traffic Impact Fee Program Update. Matt, would you like to give us a staff report.

PUBLIC HEARING ITEMS & PLANNING COMMISSION ACTION

A. Traffic Impact Fee Program (TIF) Update

Clark County proposes to revise its existing program, including TIF district map, rates, and subsequent development regulations for unincorporated Clark County

Staff Contact: Matt Hermen (360)397-2280, Ext. 4343

Email: matt.hermen@clark.wa.gov

HERMEN: Sure. For the record, my name is Matt Hermen. I'm a Planner with Clark County Community Planning.

Over the last seven months, staff as well as Technical Advisory Committee and the State Corridor Advisory Committee have been updating and reviewing the current traffic impact fee program. The staff report is before you on Tab 3 of your binders. We'll be going through a short PowerPoint presentation and seeking your recommendation. So can you click on the next slide, Sonja.

So to begin, impact, traffic impact fees are charges that are assessed by local governments against new development projects that attempt to recover the cost incurred by government in providing public facilities needed to serve that new development. Impact fees are only used to fund the facilities that are directly associated with that new development. They may be used to pay the proportionate share of the cost of public facilities that benefit the new development; however, impact fees cannot be used to correct existing deficiencies within the public facilities. The next slide.

We are doing this program because our current program is a joint administration with the City of Vancouver. The City of Vancouver chose to go a separate way; therefore, we are developing a program that is unique to Clark County that represents our unique growth patterns rather than the two joint jurisdictions. Next slide.

There's a series of recommendations that we are proposing. There's six of them that you see before you on the slide. They begin with a revised boundary system, a share of the projects that the TIF program will fund, the private share which is the amount of dollars that are contributing to each of those projects. We'll propose a new TIF rate system, examine the TIF credit system, as well as propose some changes within our development code that aim for creating efficiencies. Next slide.

So the current system has seven existing districts that the County manages. They include Rural 1 district, Rural 2 district, Mt. Vista, Hazel Dell, North Orchards district, South Orchards district and parts of the Evergreen district. Next slide.

The proposal is to go from those seven districts to these four districts. They include a combined Rural area, Mt. Vista, Hazel Dell and Orchards district. The Hazel Dell district is being modified slightly by including all of Highway 99 sub-area within that district. Existing is split at Salmon Creek stream. Next slide.

The capital project list is in your packet that's proposed for changes. It's in Exhibit 3, I believe -- Exhibit 2, I'm sorry, within your slide. It includes all of the projects in the capital facilities plan with the exception of the road preservation, bridge rehab and transportation safety improvements. The reason why those projects are off of the TIF project list is because they are not necessarily induced by new growth and new development which is what TIF is intended to pay for. The next slide.

The private share. The private share is the percentage of project costs assigned to new growth for the next 20 years. The private share is allocated to each district based on the district's contribution to new growth on each project. Any cost that is not part of the private share is called the public share. The private share for each district was determined by using the data from travel demand model and calculated as the change in p.m. peak volumes from the existing year to the future 20-year horizon. Next slide.

The new rates that are proposed as part of this program update are going from the existing system that you see on the left-hand column there, Hazel Dell at 375, Mt. Vista at 613, North Orchards at 553 and South Orchards -- you can read. And these TIF districts -- these TIF rates, excuse me,

are assigned based on daily projected volumes from new development. The proposed rates are generally proposed to decrease, with the exception of Rural 2 district, going from \$52 to the combined Rural district of \$271. The next slide.

The excess credit system. Excess credits are obtained when development goes above and beyond what's required for their site development and they contribute more to the system than they are required to do so. When that occurs, they can apply for TIF credits. And if those TIF credits are granted, they are able to be traded, sold within the existing TIF districts. We are proposing to transfer the existing credits from the old districts to the new districts. The intent behind this was because the districts are generally getting larger, that provides the TIF credit holders the opportunity for a greater share, trade and selling boundary system. Next slide.

We're also proposing changes to Title 40. This includes the imposition of impact fees. Currently we allow vesting for three years at the rate when developments come in for pre-application, and they are vested for three years. We are proposing to eliminate that vesting. That is responding to a court case, New Castle vs. La Center, that cites that TIF credits do not vest.

And we are also proposing changes to the traffic impact fee formula. Currently we have a technical document as well as the code language. Those two documents currently do not marry each other and are not synchronized. This is simply a way of maintaining the two formulas so that they are in sync. Next slide.

So with the changes that we are proposing, there are two documents that will be amended for implementation. They include the development code, as I mentioned before, as well as the traffic impact fee technical program documents. The next slide.

The one thing I do want to mention is we had a recommendation from DEAB, the Development Engineering Advisory Board. They recommended approval of the program with the exception that they do not want the imposition of fee code language to change. They want to maintain the vesting for three years on the TIFs. Their intent behind this was to allow less risk for the development when they know what the fee is before development comes in. When it's changed, if it is proposed to be changed, TIF impact fees will be calculated at the time of building permit, and they would like to maintain that at the time of pre-application conference and have it guaranteed for three years.

COOK: Unless they want to change it.

HERMEN: Unless they want to change it. With that, that's my staff report, and I'm open to any questions.

MORASCH: Any questions of staff?

BARCA: The transportation impact fees, they're eligible for the fee waiver program; is that correct?

HERMEN: Yes. Currently the fee waiver program is eligible for job-producing uses. Residential uses do pay impact fees currently. This program update is mutually exclusive from the fee waiver

program. Regardless of if this is adopted and approved, it will not impact the current fee waiver system.

BARCA: So any job-producing development opportunity, in essence, would be able to waive this regardless of the formula.

HERMEN: Correct.

BARCA: Okay. I might as well keep rolling, it looks like. Can you explain the reasoning behind the .85 adjustment being put into the TIF formula, please.

HERMEN: Sure. That currently exists today. We are not proposing to change that. That has existed from, I believe, 1999. And that .85 was originally put in the TIF program at that time because of the incurred property tax revenue coming back as a part of development. We are not proposing on changing that.

BARCA: Okay. So we're lowering the fees, unless we're waiving them completely, and then we give them .85 --

HERMEN: A 15 percent.

BARCA: -- adjustment on that unless there's a BEF?

HERMEN: A BEF, the Business Enhancement Factor is for retail and service uses.

BARCA: And at that point, that's another .7 that we multiply that by, so...

HERMEN: Correct. And that currently exists in the system and we are not proposing on changing it.

BARCA: And so that works out to roughly like a .56 overall adjustment if you have a BEF qualified development, roughly.

HERMEN: So it would be a 15 percent deduction plus a --

BARCA: Well, .7 times .85.

HERMEN: Yeah. So a 45 percent deduction.

BARCA: Unless, of course, they just choose to waive the fee completely.

HERMEN: And that currently exists. We are not proposing on changing that.

QUIRING: You cited a court decision regarding the three-year vesting, and I see that DEAB is recommending that you continue with the three-year vesting. How do you meld those two things?

HERMEN: Well, the staff is recommending the removal of the three-year vesting to increase

efficiencies and have the fees calculated at the time of building permit. Currently, calculation at three years when they come in for pre-application has a -- requires staff to keep that fee on the books and maintain that amount until their development is approved or if they do come back for building permit. The court case says that TIF fees do not vest, so the removal of that is our response toward that court case.

Chris, do you want to -- can you --

QUIRING: Is there some fear that we'll be sued if we vest in spite of what the court said?

COOK: Chris Cook, Deputy Prosecutor. I don't know of any such fear. What the case said was that there's no requirement in State law that there be vesting, because vesting is to -- vesting is the concept that controls on land uses should not change after an application has been made.

So after somebody puts in an application, the jurisdiction can't say, oh, we know what you want to do and we don't like it so we're going to change the law so that you can't make it, but impact fees are not controls on land use. So under no concept of Washington State Law, Statutory or Common Law do the court held do applicants have any entitlement to keep their impact fee the same over a number of years. And I don't entirely understand the issue with keeping the fee on the books.

But what I do know is that I've been consulted more than once in the last several months about developers who have wanted to change their impact fees because actually they've gone down. And so then what do you do? Do you have post-decision review? Do they have to apply for post-decision review when they don't really want to change anything about their development except how much they pay for impact fees?

So the County has been in an odd position where it's difficult procedurally to know how to respond to that, and what makes sense is requiring those folks to apply for post-decision review except that's not exactly what that procedure was made for.

So to just make everything more realistic for the time when the builder is coming in for the permit, the idea is to say this is when it's going to be and what the fees are at that time. That's what you should plan to pay, rather than holding on for -- holding on for a number of years to something that might be unrealistic because fees have either increased or decreased, so that's been my experience with it at any rate.

QUIRING: Would you say that it's really more of an anomaly, though, that fees actually go down, I mean, that their fee went down? It would certainly be more, much more common, I would think, that they went up than down.

COOK: It has been my experience in the last seven years is that they've gone down and that's limited, obviously, but that's the last seven years. Hello.

JARDIN: Good evening. David Jardin, transportation concurrency, TIF support. It's been my experience here at the County that typically you're right, the fees go up annually and it's based on the Seattle Cost Index. That's how we're set up.

But what's been happening over the last couple of years is that we've modified our capital facilities plan so that adjustment has actually reduced the TIF amounts overall and now we're coming in with this new program, totally new revamped program and that it's adjusting the fees down again. So it's not that it is commonplace for a fee to -- or the transportation impact fee to go down. It's more along the lines of what you had started with, it's typically an increase.

QUIRING: Thank you. So just to wrap up about this court case, the way I understood it was stated was is that there are no impact fee; in other words, there's no requirement that you have it by State law, but you may have it. Is that the case?

HERMEN: Correct. There are some --

QUIRING: Is it an administrative nightmare that you're trying to avoid?

HERMEN: The vesting?

QUIRING: Yes.

HERMEN: We currently practice it. It's not a nightmare. I wouldn't characterize it by a nightmare. It is the ability to save staff time as well as have the fees calculated at building permit. So when fees, if this moves forward and fees do go down, we will not have the pressure to do the post-decision review to lower the fees.

QUIRING: You do anticipate, what I hear you saying - and correct me if I'm wrong - you do anticipate that fees will go down; thereby, this vesting actually doesn't save the developer really much. He actually could be in a situation where his fee would be going down and then there would be a setup for having to have a hearing later.

HERMEN: Yeah. Correct.

QUIRING: I guess my question would be why didn't DEAB see that?

COOK: Well, they wanted it both ways.

QUIRING: I see.

COOK: They wanted to vest, but --

QUIRING: They also want to take advantage.

COOK: -- if the fees went down, they wanted the option to be able to say, well, we'd like to do the lower one, please.

QUIRING: Who wouldn't. Okay. Thanks.

MORASCH: Anyone else have any questions for staff? All right. Well, thank you very much.

I think at this point we will open up our public hearing. And I'm trying to read the handwriting here, it looks like Ray Delahanty.

Public Testimony

DELAHANTY: Delahanty.

MORASCH: Delahanty. All right. Would you like to come up and speak? You're the first person who signed up on our public comment list.

DELAHANTY: No, I just signed in.

JOHNSON: Now you have to.

MORASCH: Yeah, now you got to come on down. Are you sure? Going once. All right. You're excused.

HOLLEY: Could he spell his name.

MORASCH: Can you spell his name. I can't spell his name based on this. Can you spell your name for us.

DELAHANTY: D-e-l-a-h-a-n-t-y.

MORASCH: Thank you.

JOHNSON: Saying it on the record.

BARCA: Yeah, he's on the record now.

JOHNSON: You're on the record now.

MORASCH: All right. And then someone else who has cursive for their last name that I can't read, Michelle Girts?

GIRTS: Girts.

MORASCH: Girts. Would you like to come up and have any comments?

GIRTS: Actually, no, not at this point.

MORASCH: Okay. G-e-r-t-s or is there a z?

GIRTS: G-i-r-t-s.

MORASCH: G-i-r-t-s. Okay. Thank you very much. That is the end of our sign-in sheet.

Return to Planning Commission

Is there anyone in the audience who didn't sign in who would like to have some comments about this topic? All right. Seeing no one, we will close the public hearing. And since there was no testimony, we don't really have any further follow-up questions. But if anybody has any more questions for staff, now is the time to ask; otherwise, I'll open it up for deliberation. Does anybody have any deliberation?

BARCA: So I'm going to express my concerns about this in the context of budgetary concerns for our infrastructure. We're giving a reduced factor for the sake of property tax. Do we know that 15 percent of the property tax goes towards public road and infrastructure?

HERMEN: No, I can't say that for certain.

BARCA: Okay. And I haven't found anybody that can actually give me that number, so I would agree with you. But we came up with a good firm number on how much we think it's worth. And we're waiving fees for anybody who wants to apply with the concept of creating a job and the threshold for that is a job.

The record from the Auditor's Office 2014, I think they said the County waived \$7.8 million in 2014 for job, potential job creation, 153 projects. I don't know where the money is supposed to come from, and I don't know why the only area that has an increase in impact fees is the rural area. Rural 2 which is probably going to see by far the least amount of development, but it will definitely be in the form of residential, so they're not going to have the opportunity to waive any fees.

It seems like we've shifted some burdens here and I don't quite understand the reasoning. I understand that we had to break away from Vancouver and we had to come up with a method, but we did more than just break away and propose our own at the current rates. We made some significant cost shift and I don't believe we took into account the idea that for job creation development projects, we're already giving the people basically traffic impact fee waiver 100 percent.

So I'm a little concerned about what the outcome is going to be, and when we talked about this in work session, I don't think we were able to really ascertain what we thought the cost impact would be. Has there been any more analysis of what we think the cost impact to this would be?

HERMEN: TIFs have been calculated to pay for the new growth that is forecasted. Our forecast is based on the current capital facilities plan. TIFs are not a new revenue source. They do not contribute to funding anything besides the growth that has incurred on those streets.

Increase to the capital facilities plan would increase the revenue stream. We have eliminated projects in the past off of the capital facilities plan and that has lowered the TIF fee. The TIF rates that are calculated and proposed in front of you are proposed to pay for the costs that are forecasted to incur.

BARCA: They're proposed to pay the developers' designed proportion; the rest of it is public

share.

HERMEN: The rest of it is public share.

BARCA: So when we lower the TIF rate and waive fees, we are raising the public share.

HERMEN: The study, this TIF program update was done exclusively from the TIF fee waiver program. The TIF fee waiver program and this program are mutually exclusive.

BARCA: Until it comes to the point of saying what money goes into the general fund and what doesn't.

HERMEN: The program was studied as if the TIF fee waiver program does not exist.

BARCA: Does not exist. I certainly understand that. But when somebody applies for it, their portion, the developer portion gets waived and the public share goes up proportionately.

HERMEN: That's a policy call.

BARCA: That's a policy call. I understand that. We're also now changing it to make a policy call to lower the TIF fee for those that don't qualify for fee waiver.

HERMEN: The forecasted, the proposed rates, are not based on policy. They are based on our technical analysis. They are based on our forecasted growth that's projected over the 20 years, and that's divided based on the amount of the projects in the capital facilities plan divided by the amount of growth that's projected. It is purely a technical analysis. It is not a policy call, the proposed rates that are proposed in front of you today.

MORASCH: Anything else?

BARCA: Hasn't been a lot of deliberation, but I was able to get that off of my chest. So, yeah, let's go ahead.

MORASCH: Eileen, do you have any questions for staff or deliberation?

QUIRING: I don't think so. I think I gave my battery of questions earlier.

MORASCH: Karl.

JOHNSON: No.

BENDER: No, it's pretty much what I was thinking, so...

QUIRING: So are we finished with our deliberation?

MORASCH: I think we're ready for a motion. I think the only thing I would add is I think there are two separate things: there's the waiver and then there's what's before us tonight. And so, I

mean, I'd like to see us vote on what's before us tonight. If people want to express their own opinion about the waiver or bring that up during new business or something, I mean, I think we can do that, but I think this current fee update ought to stand or fall on its own merit separate from whatever people think about the waiver.

QUIRING: And with that in mind, I would move, actually with the staff's recommendation, to approve the staff recommendation without saying anymore.

MORASCH: Without any changes?

QUIRING: Without any changes. And I guess I could qualify, the reason I say that is because of what we heard in testimony here in questioning if DEAB wanted that, the vesting to remain. What actually may occur is that fees will go down and, therefore, there will be extra hearings, so...

MORASCH: Well, decisions. I'm not sure if those type --

QUIRING: Decisions --

MORASCH: I think those are probably Type I --

QUIRING: -- not hearings. I don't mean hearings.

MORASCH: -- post-decision review.

(Inaudible. Morasch and Quiring talking at the same time.)

QUIRING: I'm sorry. I shouldn't have used that word.

COOK: Well, it depends. They could either be Type I or Type II.

JOHNSON: So that's the motion?

QUIRING: Well, that's my **MOTION**

JOHNSON: I **second**.

MORASCH: All right. It's been moved and seconded. Is there any discussion on the motion?

BARCA: I just think I need to make the statement, Mr. Chair, after you talked about separating the waiver of the fees. The reason I believe it's germane is the idea that we've made a conscious choice to also lower the fees at the same time we're in the policy environment of fee waiver. That is where a technical decision, in my opinion, parts and becomes policy.

MORASCH: All right. Any further discussion? Okay. Can we have the roll call, please.

ROLL CALL VOTE

JOHNSON: AYE
BARCA: NO
QUIRING: AYE
BENDER: NO
MORASCH: AYE

WISER: Did I get everybody?

BARCA: It's a tie.

QUIRING: It's 3 to 2. It was not a tie.

MORASCH: It was 3 to 2. So the motion carries.

QUIRING: What school did you go to? Which math is that?

MORASCH: He was hoping for a tie. All right. Thank you, Matt.

And I think that takes care of the public hearing item. I don't believe there's any old business.

OLD BUSINESS

None.

NEW BUSINESS

MORASCH: Is there any new business? All right. You're not going to make a motion that we revisit the waiver issue?

BARCA: No.

MORASCH: All right. In that case, we have the last item on the agenda is actually election of vice chair. Do we have nominations?

BARCA: I'm willing to volunteer if we can move this thing along. We take days to do this sometimes.

JOHNSON: I nominate Ron Barca.

MORASCH: All right. Is that seconded?

BENDER: Second.

MORASCH: All right. It's been moved and seconded to nominate Ron Barca. Are there any other nominations? All right. Well, all in favor?

EVERYBODY: AYE

MORASCH: Opposed? No. Ron, congratulations, you are our new vice chair.

COMMENTS FROM MEMBERS OF THE PLANNING COMMISSION

None.

ADJOURNMENT

MORASCH: And that is the last item on our agenda. So with that, we are adjourned.

The record of tonight's hearing, as well as the supporting documents and presentations can be viewed on the Clark County Web Page at: <http://www.clark.wa.gov/planning/PCmeetings.html>.

*Proceedings can be viewed on CTVTV on the following web page link:
<http://old.cityofvancouver.us/cvtv/cvtvindex.ask?section=25437&catID=13>.*

*Minutes Transcribed by:
Cindy Holley, Court Reporter/Rider & Associates, Inc.
Sonja Wiser, Administrative Assistant, Clark County Community Planning*