August 17, 2006

AGENDA ITEM

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**Department:** Legal Department

**File Number:** VC-1154629851266-A

**Division:** Legal

**Subject:** Amending the Code of Ordinances of Volusia County, Chapter 70, titled Impact Fees.

**Account Number(s):** N/A

**Total Item Budget:** N/A

**Staff Contact(s):**
- Jamie Seaman Phone: 736-5950 ext. 2951
- Gerald N. Brinton, P.E. Phone: 736-5967 ext. 2294

**Summary/Highlights:**
Staff is proposing a text amendment to the Impact Fee Ordinance to clarify the way the County currently interprets the Ordinance relating to minimum level of service (LOS) standards. This amendment does not change in practice or how the County views the Ordinance is to be enforced.

The need for this amendment is because a number of cities within Volusia County have established different (higher) level of service standards for County roads within their jurisdictions as compared to Volusia County’s standards.

This amendment clarifies that the Ordinance is based on the minimum LOS standards for County maintained thoroughfare roads as defined in the Volusia County

**Recommended Motion:**
That County Council approve the proposed amendment to Ordinance No. 2006-14 as presented.

---

Daniel D. Eckert, County Attorney  

[Signature]

OMB  

Approved as to Budget Requirements

[Signature]

Legal  

Approved as to Form and Legality

[Signature]

Betty Holness  

County Manager's Office  

[Signature]

Approved Agenda Item  
For:  
August 17, 2006

Council Action:  
[ ] Approved as Recommended  
[ ] Approved With Modifications  
[ ] Disapproved  
[ ] Continued Date:

Modification:
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<td>Comprehensive Plan and not the LOS standards as defined by the cities. This clarification has been prompted by discussions with the cities regarding proportionate fair share as part of the new growth management law (Senate Bill 360).</td>
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The Planning and Land Development Regulation Commission at its meeting on July 11, 2006 unanimously recommended that the proposed Ordinance be forwarded to the County Council for approval.
ORDINANCE NO. 2006-14

AN ORDINANCE OF THE COUNTY COUNCIL
OF VOLUSIA COUNTY, FLORIDA,
AMENDING THE CODE OF ORDINANCES
OF THE COUNTY OF VOLUSIA, CHAPTER
70, TITLED “IMPACT FEES,” ARTICLE III,
“THOROUGHFARE ROAD IMPACT FEE” BY
AMENDING SECTION 70-79, “EXEMPTIONS
AND CREDITS”; BY REQUIRING THE
IMPACT FEE CREDITS BE BASED ON THE
COUNTY COMPREHENSIVE PLAN LEVEL OF
SERVICE; BY PROVIDING FOR INCLUSION
IN CODE AND SCRIVENERS ERRORS; BY
PROVIDING FOR SEVERABILITY; BY
PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE COUNTY COUNCIL OF VOLUSIA COUNTY,
FLORIDA, AS FOLLOWS:

(Words in strike-through type are deletions; words in underscore
type are additions.)

SECTION I: That Section 70-79 of the Code of Ordinances of the County
of Volusia, is amended to read as follows:

Sec. 70-79. Exemptions and credits.

... 

(b) Credits.

(1) No credit shall be given for site-related improvements, except
as provided for in subsection (2) of this subsection (b).

(2) All roadway improvements and/or right-of-way dedications
required under a county or city development order or approval
which are included within the roads contemplated in section 70-
77(b)(1), except for those improvements deemed site-related, shall be based on the minimum level of service standards for county maintained thoroughfares as defined in the Volusia County Comprehensive Plan and will be credited against thoroughfare road impact fees. In addition, any person who constructs or contributes land, money or services for any road improvements (whether site-related or not) contemplated in section 70-77(b)(1) which are included within the most recently adopted five-year work program of the county or of the state department of transportation for the county shall be entitled to credits against thoroughfare road impact fees imposed pursuant to this article in accordance with subsection (3) of this subsection (b) based on the minimum level of service standards for county maintained thoroughfares as defined in the Volusia County Comprehensive Plan.

...
appropriately renumbered to conform to the uniform numbering system of the Code.

SECTION IV: SEVERABILITY - Should any word, phrase, sentence, subsection or section be held by a court of competent jurisdiction to be illegal, void, unenforceable, or unconstitutional, then that word, phrase, sentence, subsection or section so held shall be severed from this ordinance and all other words, phrases, sentences, subsections, or sections shall remain in full force and effect.

SECTION V: EFFECTIVE DATE - A certified copy of this Ordinance shall be filed with the Department of State by the County Manager within ten (10) days after enactment by the County Council and this Ordinance shall take effect upon filing with the Department of State.

ADOPTED BY THE COUNTY COUNCIL OF VOLUSIA COUNTY, FLORIDA, IN OPEN MEETING DULY ASSEMBLED IN THE COUNTY COUNCIL CHAMBERS AT THE THOMAS C. KELLY ADMINISTRATION CENTER, 123 WEST INDIANA AVENUE, DELAND, FLORIDA, THIS _____ DAY OF __________________ A.D., 2006.

COUNTY COUNCIL ATTEST: COUNTY OF VOLUSIA, FLORIDA

_________________________________________________________
James T. Dinneen, County Manager  Frank T. Bruno, Jr., County Chair
2. Proposed Amendment to the Volusia County Code of Ordinances, relating to Thoroughfare Road Impact Fee Credits………Jon Cheney, Traffic Engineering

Jon Cheney, Traffic Engineering, stated this is a text amendment to the Ordinance to clarify how they issue impact fee credits. They have recently done an analysis of the different cities level of service standards, and compared it to Volusia County’s standards. What they have found is that on the County thoroughfare roads there is a difference in the level of service standards. He stated five or six of the cities have a higher level of service standard than Volusia County has. Lake Helen has a level of service B on all of their roads, and Volusia County’s level of service standard is level E. He stated what they would like to do an interim measure, so if any city enters or passes an ordinance for proportionate fair share, that as part of the Florida statute of Senate Bill 360, that they are eligible for impact fee credits. The impact fee credits are based on the County standard for all thoroughfare roads in Volusia County (which includes County, State, and City thoroughfare roads), and they would like to tie the issuance of the credits to the County’s level of service standard.

Mike Dyer, Assistant County Attorney, commented that what Mr. Cheney spoke of was the way the County presently interprets the Ordinance, and this is being done to clarify that interpretation. He stated it would not be a change in practice or how they view the Ordinance is to be enforced.

Chairman Huttmann asked if anyone had any questions for Mr. Cheney, or if anyone wished to discuss anything.

Member Rudolph MOVED to FORWARD the Proposed Amendment relating to Thoroughfare Road Impact Fee Credits to the County Council for APPROVAL as presented by Staff. Member Tooley SECONDED the motion. Motion CARRIED with a vote of 5-0. Members Cornett and Sixma not present to vote.