

9:30 a.m.
Agenda Item # _____

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

WORKSHOP SUMMARY

Meeting Date: JULY 18, 2017

DEPARTMENT: Office of Financial Management & Budget

I. EXECUTIVE BRIEF

Title: Workshop on Impact Fees

Summary: This workshop provides an overview of Palm Beach County's impact fee program, including the history of impact fees in Palm Beach County, rules and regulations affecting the administration of the County's impact fee program, revenue trends, and the legal requirements of impact fees. Countywide (LB)

Background and Policy Issues: The Countywide impact fee program was first enacted in Palm Beach County in 1989. The program is administered in accordance with Article 13 of the Unified Land Development Code, Florida Statutes on impact fees, and case law. The workshop will provide an overview of Palm Beach County's impact fee program, including the rules, regulations and legal requirements governing the administration of the impact fee program and the limitations and restrictions on the use of impact fee revenues. The workshop materials will also include an introductory discussion of mobility fees and explain the differences between impact fees and mobility fees.

Attachments:

1. PowerPoint Presentation

Recommended By: Sherry Bon 7/12/17
Department Director Date

Approved By: Verdenia C. Baker 7/13/17
County Administrator Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income(County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT * <u>0</u>	_____	_____	_____	_____	_____
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____
Is Item Included In Current Budget?	Yes _____	No <u>X</u> _____			
Budget Account No.:	Fund _____	Department _____	Unit _____		
Object _____	Reporting Category _____				

B. Recommended Sources of Funds/Summary of Fiscal Impact:

C. Department Fiscal Review: *No Fiscal Impact


Impact Fee Manager


III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Dev. and Control Comments:


OFMB 7/11/17


Contract Dev. and Control 7/12/17

B. Legal Sufficiency:


Assistant County Attorney

C. Other Department Review:

Department Director

This summary is not to be used as a basis for payment.



WORKSHOP ON IMPACT FEES

Board of County Commissioners
July 18, 2017





IMPACT FEE WORKSHOP AGENDA

- Definition
- History of Impact Fees in Palm Beach County
- Methodology
- Rules & Regulations
- Credits
- Revenue Trends
- Legal Requirements
- Mobility
- Q & A



DEFINITION

- A fee imposed by local government on **NEW DEVELOPMENT** to help pay for **NEW CAPITAL FACILITIES** that **ADD CAPACITY** demanded by growth.
 - One-time charge
 - Assessed at permit issuance
 - No waivers
 - The BCC authorized Resolution R2009-2013 to designate 50% of investment earnings on roads, parks, and public buildings impact fee revenues to use for the road, park, and public building impact fees for affordable housing (Impact Fee Affordable Housing Assistance Program (IFAHAP)). Assistance is capped at \$3M annually
- Certain Exemptions are available
- Fee must pass the Dual Rational Nexus Test
- Court cases have shaped impact fee practice



EXEMPTIONS

- Any development that results in no new impact on the capital facilities for which the fee is assessed
- 55 years and older adult communities may be exempt from school impact fees
 - Must execute a declaration and restrictive covenant with the Impact Fee Office
 - Must file in the public record
 - Fees assessed for violations at rates in effect at time of violation discovery
- Accessory structures
 - Garages
 - Barns
 - Sheds
 - Porches & Patios
- Government Owned & Operated Facilities



DUAL RATIONAL NEXUS TEST

- Requires that there be a connection (nexus) between new development and the new or expanded facilities required to accommodate the new development
- Requires an identification of the cost of the new or expanded facilities required to accommodate new development
- Requires appropriate apportionment of costs to new development in relation to benefits reasonably received by new development

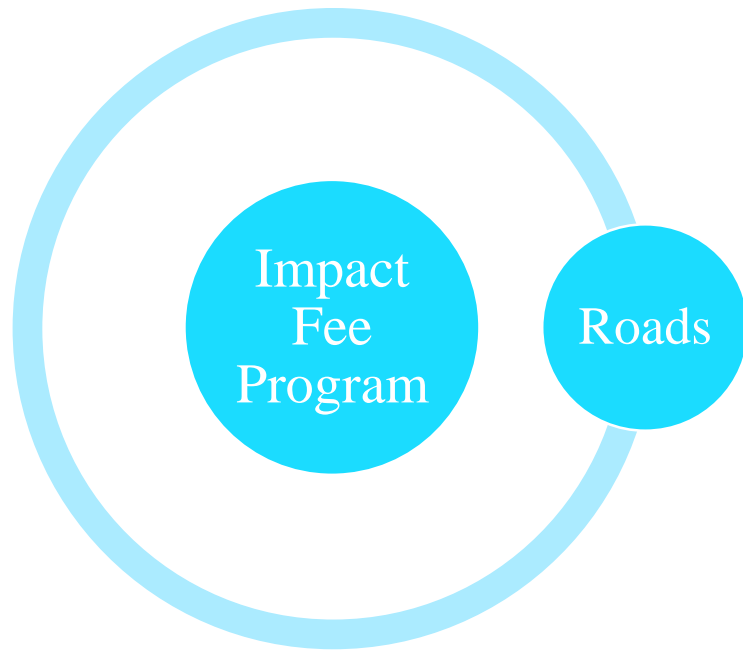


HISTORY IN PALM BEACH COUNTY

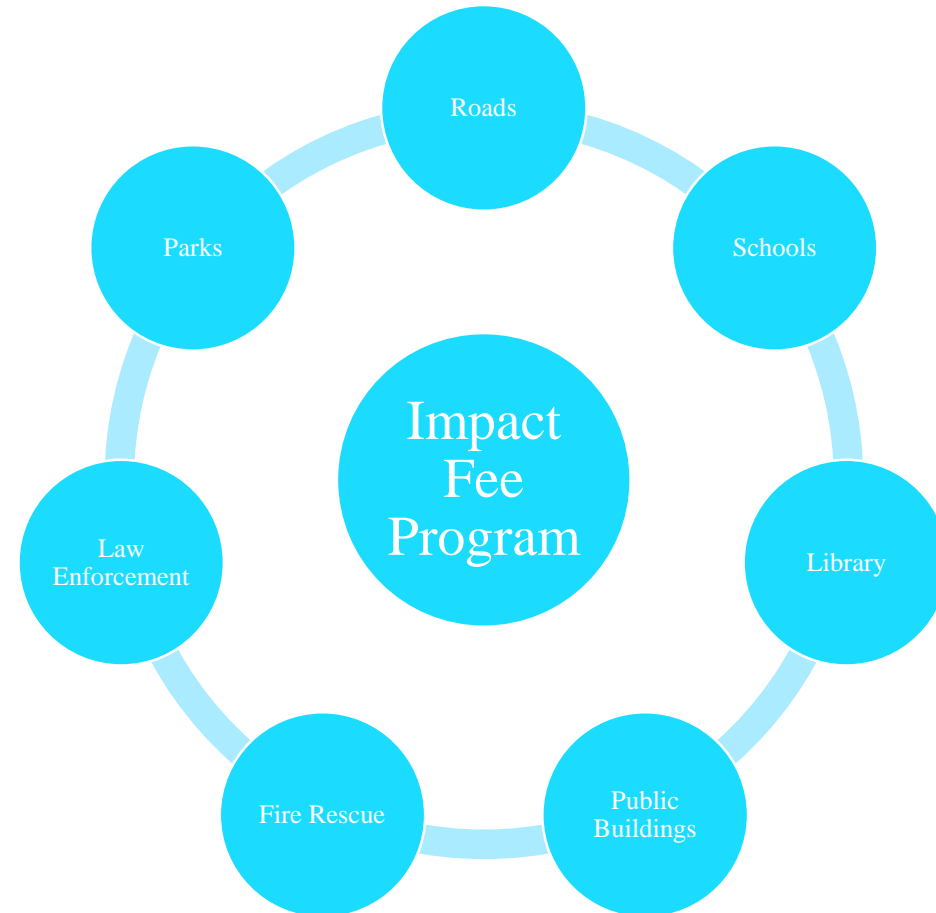
- Pioneer in use of impact fees
- Roads impact fees assessed July 1979
- Collections suspended November 1979 when challenged in court
- Collections resumed in 1982 after legal challenges were resolved
- Charter amendment approved by voters in 1988
 - Expands fee structure to include parks, libraries, schools, law enforcement, fire rescue, public building
 - Makes fees countywide
- Aggregate fees begin October 1989

PBC IMPACT FEE PROGRAM

Before 1989



Since 1989





METHODOLOGY

- Program reviewed approximately every two years
 - Costs, levels of service, data
 - Roads (design, mitigation, construction, trip lengths, trip gen rates); Parks (design, equipment, construction); Library (design, books, construction, land); Population; Housing Inventory, etc.
 - Article 13 (PBC Unified Land Development Code (ULDC)) text amendments, as appropriate
- Consultant performs study - Expert in impact fees
 - Dr. James C. Nicholas – 1989 to 2012
 - Tindale Oliver & Associates – Since 2012
- Recommends changes and adjustments to the system to the Advisory Board & BCC
 - Legally defensible & consistent with prevailing Court rulings
 - Consistent with Florida law
- Impact Fee Review Committee – Advisory Board
- BCC approved



RULES & REGULATIONS

- Impact Fee Program administered in accordance with Article 13 of the Unified Land Development Code
- No Waivers (IFAHAP provides impact fee assistance for affordable housing)
- Impact Fee Revenues
 - Fiduciary trust funds
 - May be used only for purposes for which fees were collected
 - May not be used to pay operating expenses
 - Must be expended in the same benefit zones the fees were collected
- **Time Limitations**
 - Revenues must be - **Encumbered in 6 years / Expended in 9 years**
- Fees are not assessed in The Glades (Belle Glade, Pahokee, South Bay, Unincorporated Glades area)
 - Infrastructure needs in The Glades are not growth related



INDEPENDENT FEE CALCULATION STUDY

- May be prepared at the option of the feepayer
- Prepared at the feepayer's expense
- Must follow the methodologies used in the Biennial Update report
- For road impact fees:
 - Study must be conducted by a registered traffic engineer or qualified professional in traffic analysis
 - Traffic analysis must include appropriate documentation of trip generation rates, trip distribution and traffic assignments, and trip lengths
- **Study must be approved** by the Impact Fee Manager and the impact fee user department



IMPACT FEE APPEALS

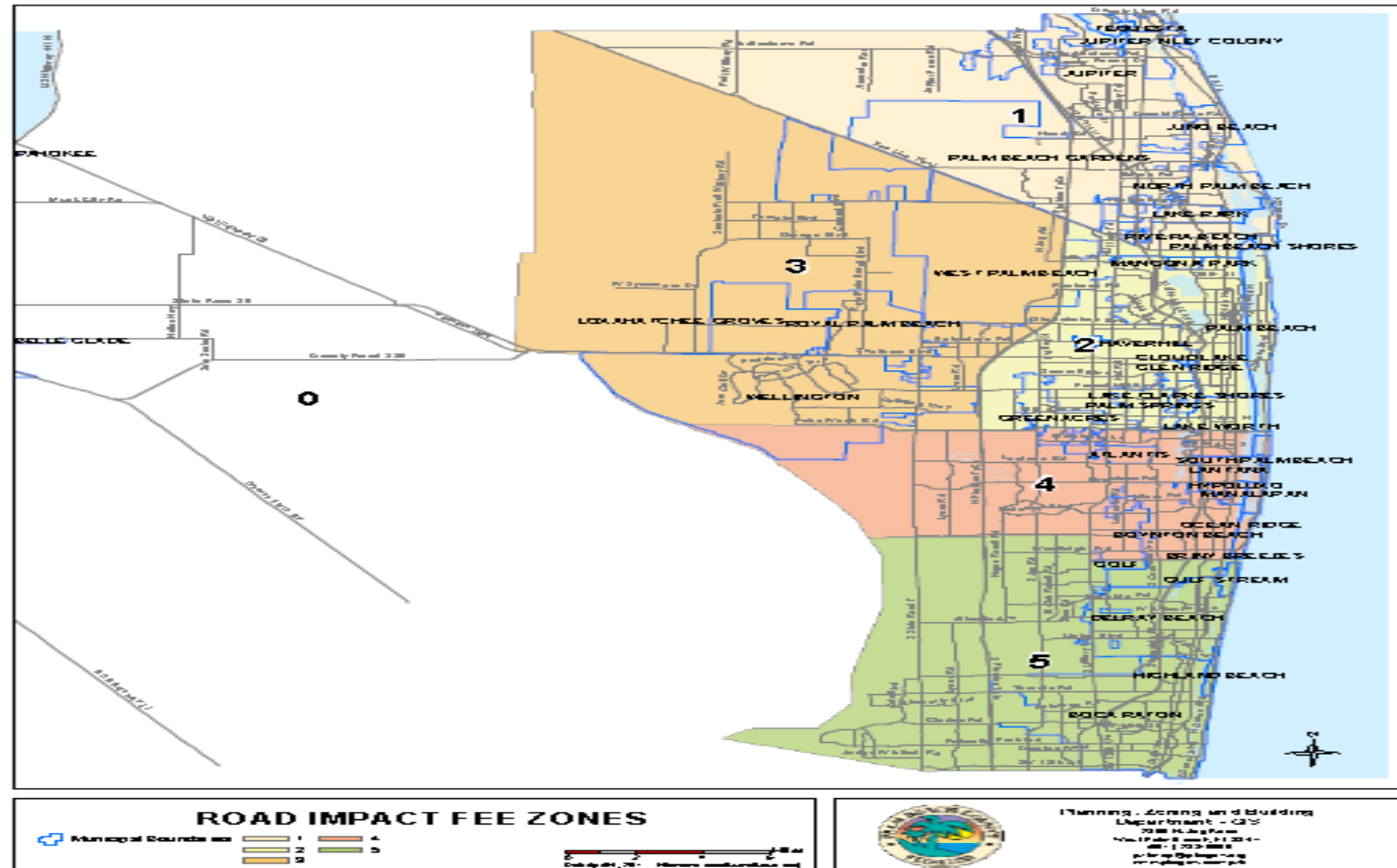
- Decisions by the Impact Fee Manager (IFM) on independent fee studies and interpretations of Article 13 may be appealed
- Applicant must file a letter of appeal
 - Must be filed within 15 working days of IFM's decision
 - Letter must state with specificity the reason for appeal
 - Letter must contain all the facts and evidence to be used by the feepayer in the appeal
- IFM may establish a reasonable fee to cover the cost of the appeal
- Special Magistrate hears and decides appeals



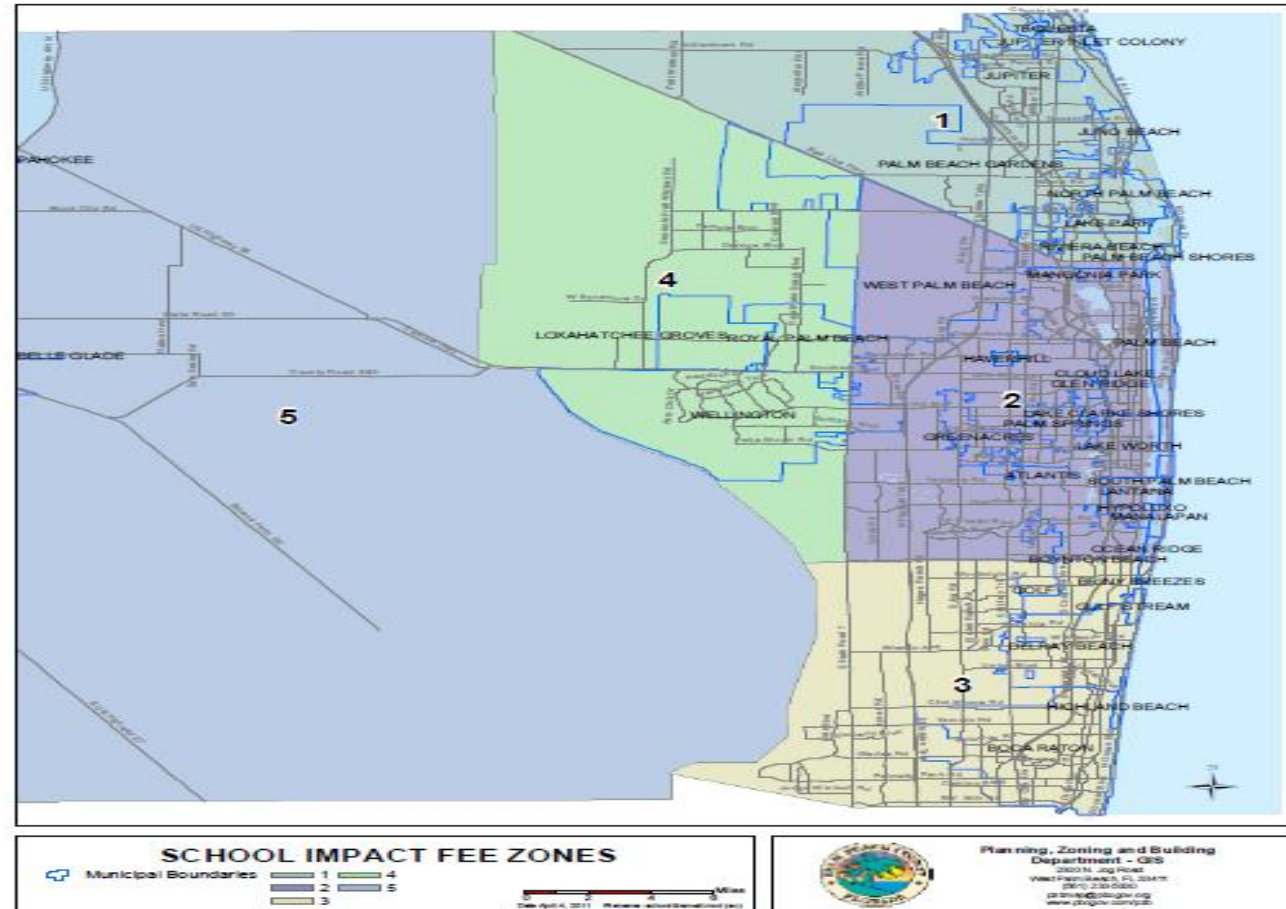
BENEFIT ZONES

- Each impact fee component has separate and distinct benefit zones or geographic regions.
- Impact fee revenues are accounted for by benefit zone.
- Impact fees revenues collected in a benefit zone must be expended in the same benefit zone.
- Benefit zones by impact fee type
 - Roads - 5 zones
 - Schools – 4 zones
 - Parks – 3 zones
 - Public Building, Law Enforcement, Fire Rescue, Library – 1 zone each

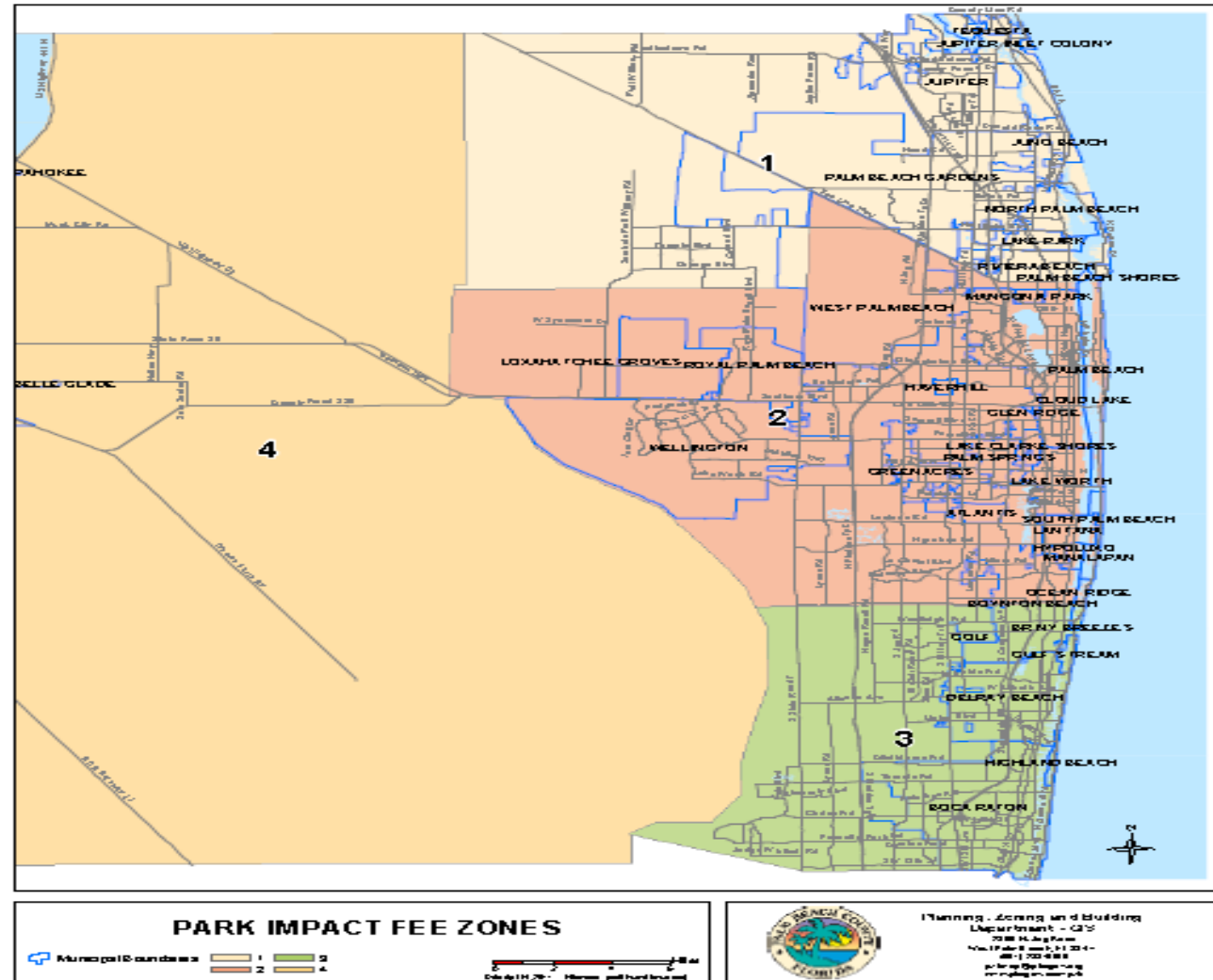
ROAD IMPACT FEE BENEFIT ZONE



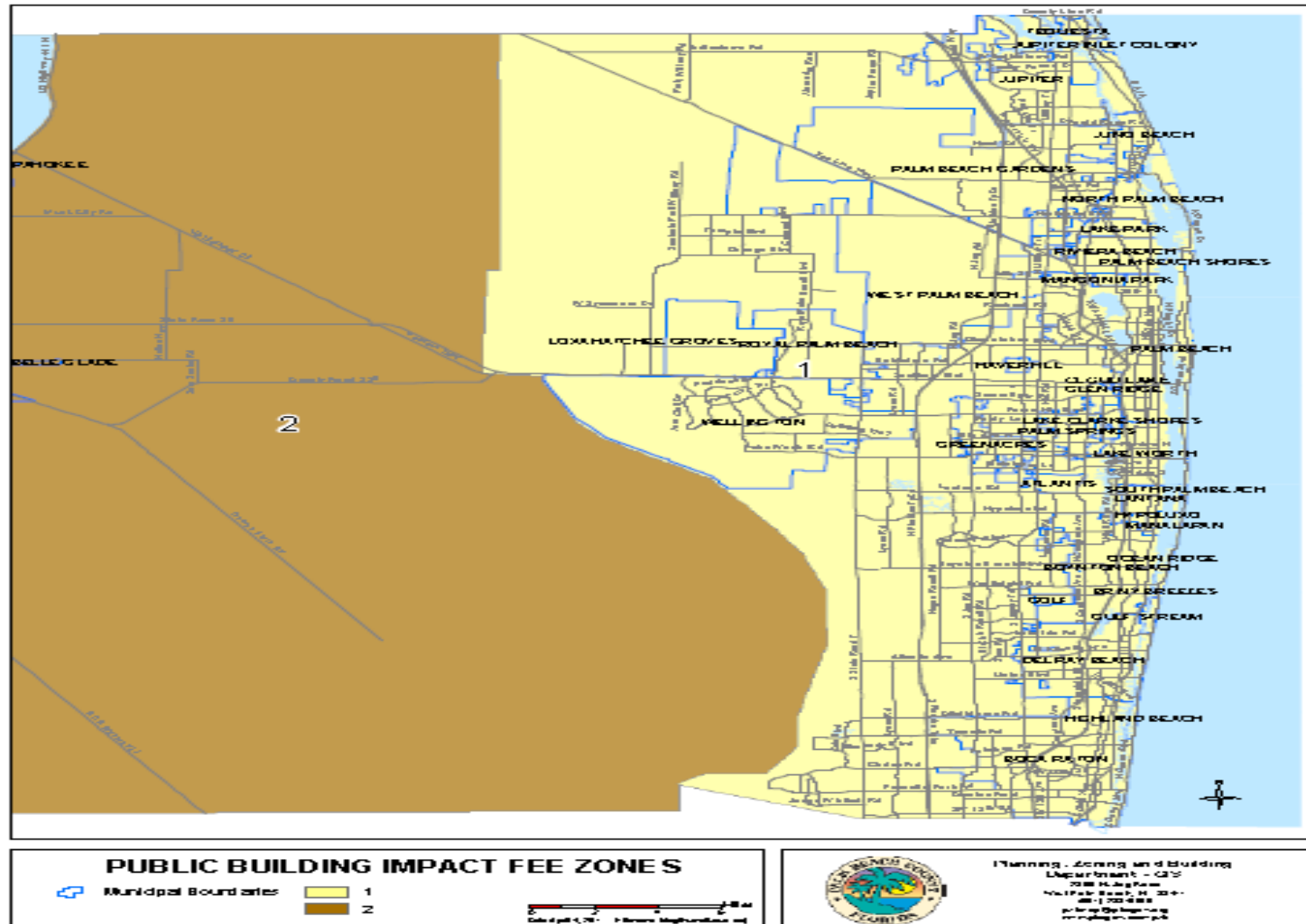
SCHOOL IMPACT FEE BENEFIT ZONES



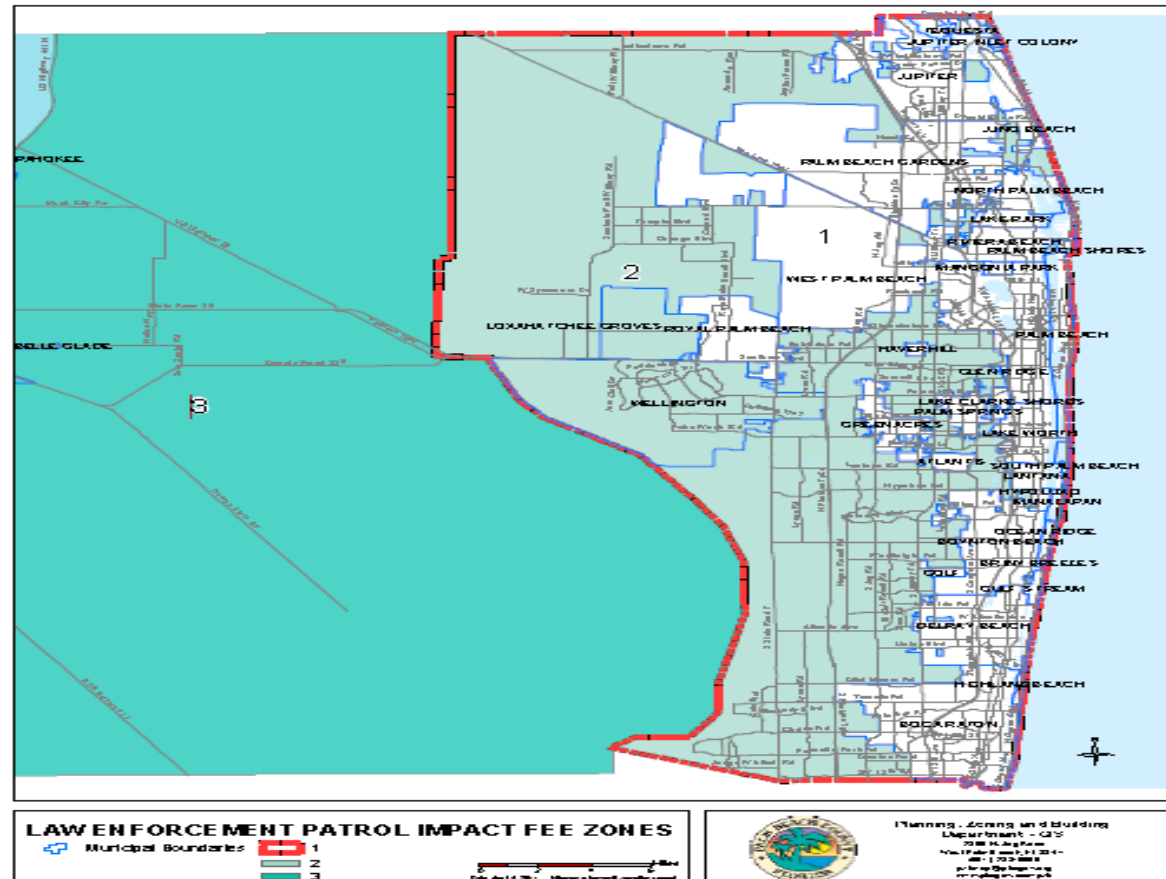
PARK IMPACT FEE BENEFIT ZONES



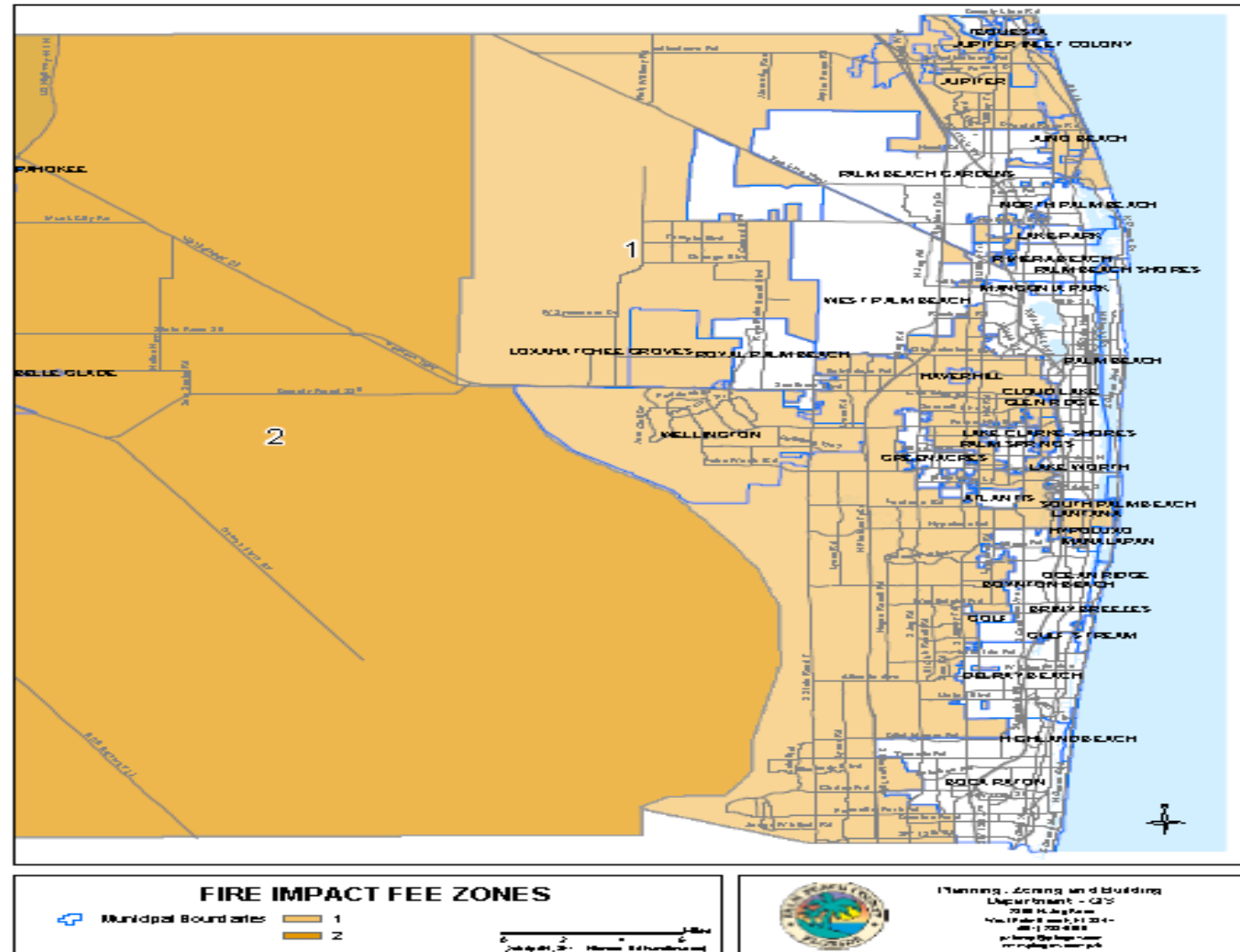
PUBLIC BUILDING IMPACT FEE BENEFIT ZONE



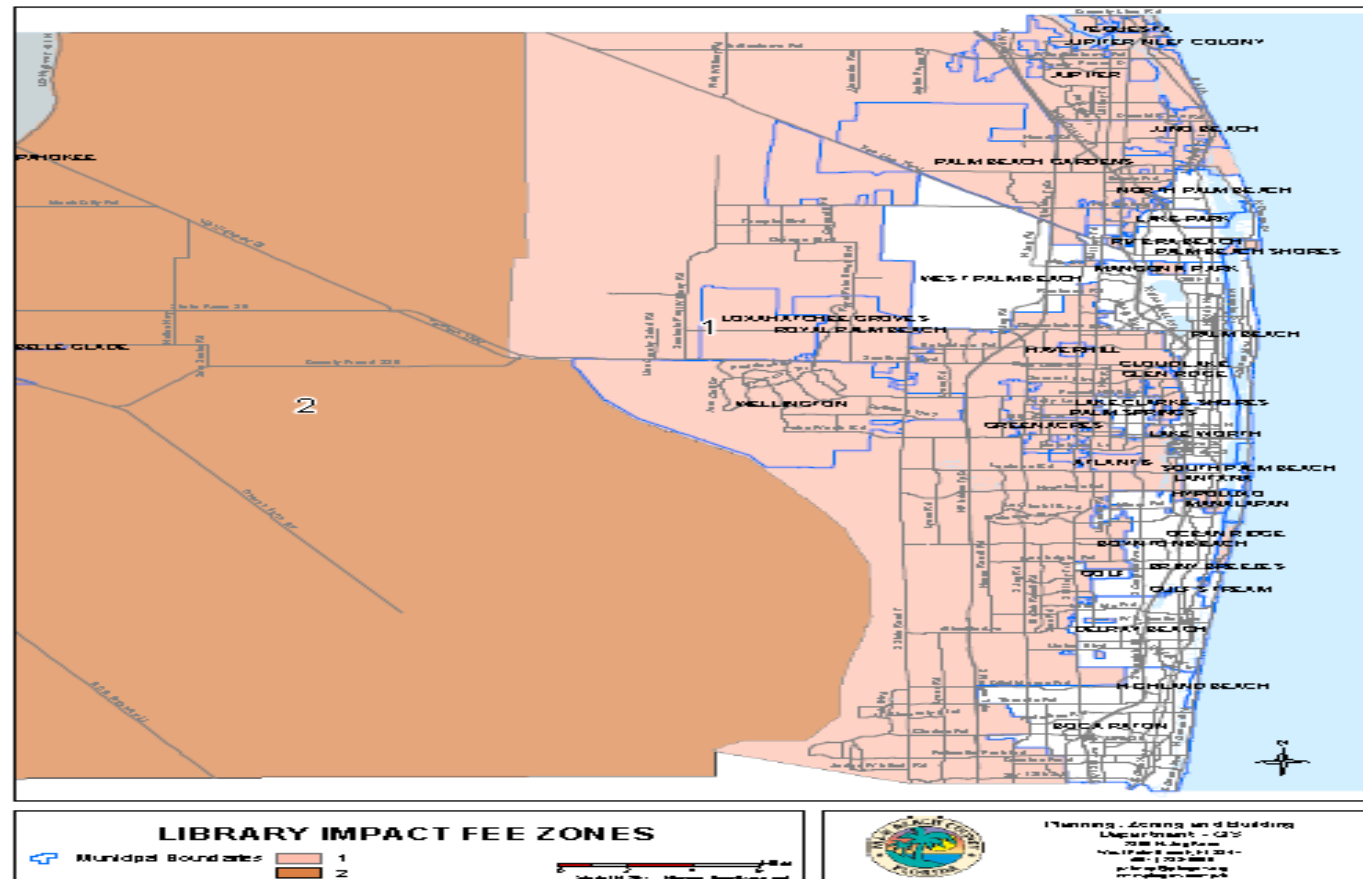
LAW ENFORCEMENT IMPACT FEE BENEFIT ZONE



FIRE RESCUE IMPACT FEE BENEFIT ZONE



LIBRARY IMPACT FEE BENEFIT ZONE





IMPACT FEE CREDITS

- Reduce the impact fee assessment
- Existing Use Credits– Earned for redeveloping a property
 - Fee payer must document the previously existing structure
 - Exceed \$40M since 1990
 - City Place - \$2.2M
- In-kind Contribution Credits – Developer donates a capital facility
 - New road, new lane miles, or intersection improvements
 - Land for a new school
 - Land for a fire rescue station
 - Cash donations for capital facilities
 - \$156M authorized since 1990
- Prop Share Payments – Credited against road impact fees

IMPACT FEE USES

Eligible



- New Roads – Lyons Road
- New Schools or Additions – Boynton Beach High
- New Parks – Burt Aaronson South County Regional Park
- New Public Building – Vista Center
- New Sheriff substations

Ineligible



- Maintenance – Resurfacing and repairing pot holes
- Fixing roofs or repainting schools
- Fixing broken park equipment
- Relighting and new roofs
- Salaries & other operating expenses

CAPITAL BUDGET PROCESS

Departments propose projects that use impact fee revenues

Projects reviewed/approved by Impact Fee Manager

County Administrator presents budget to BCC

BCC prioritizes and approves

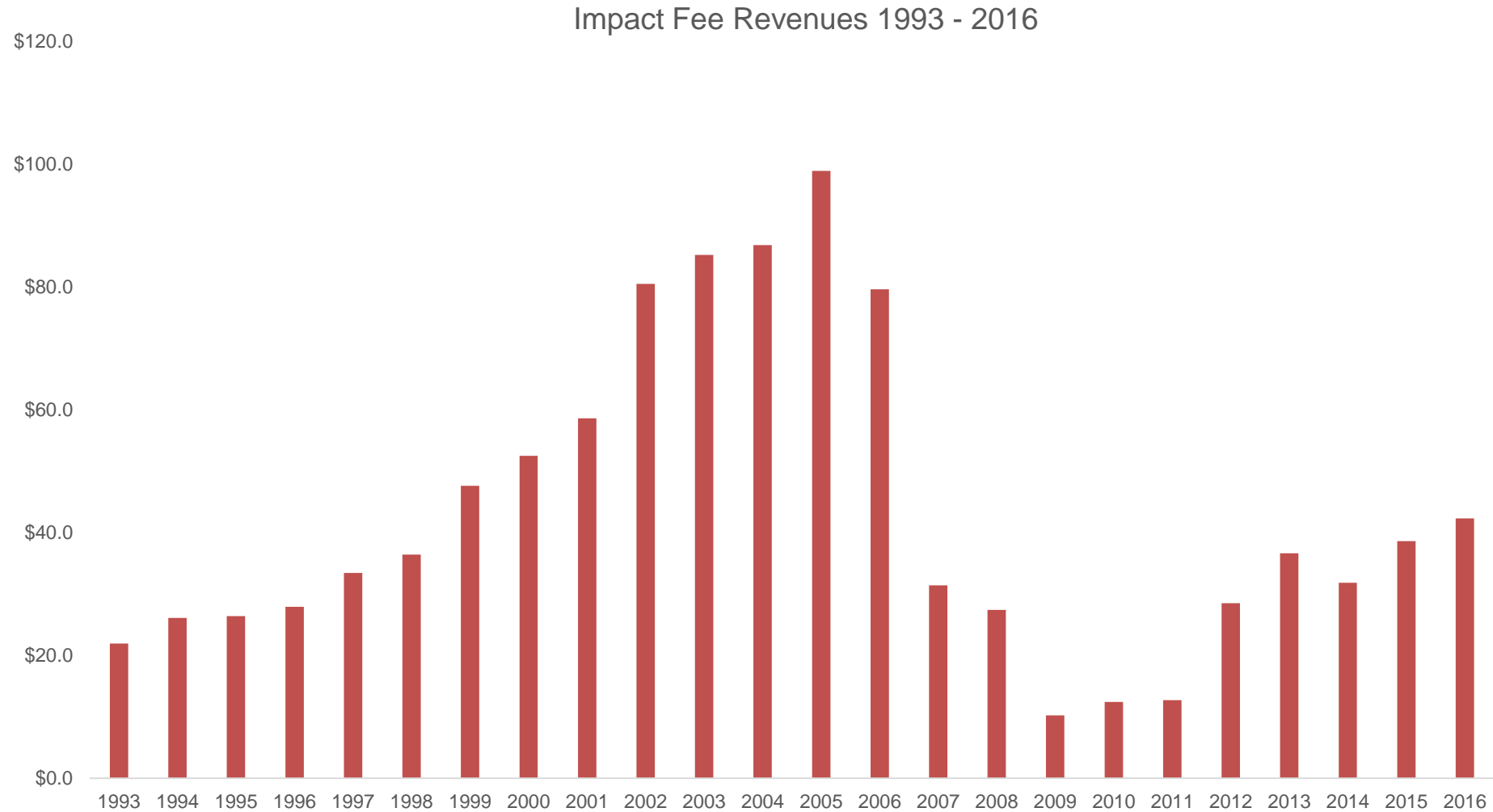
Final Capital Budget or Five Year Road Program



REVENUE HIGHLIGHTS

- 1993 to present - \$1.034B
- Road Impact Fee Revenue - \$560M (54%)
- School Impact Fee Revenue - \$219M (21%)
- Highest Revenue Years
 - 2003 - \$85.2M
 - 2004 - \$86.8M
 - 2005 - \$98.9M

IMPACT FEE REVENUES, 1993 - 2016





IMPACT FEE REVENUES BY TYPE

- 1993 – 2016
 - Roads - \$560.M (54%)
 - Schools - \$219M (21%)
 - Parks - \$156M (15%)
 - Fire Rescue - \$29M (3%)
 - Public Buildings - \$36M (3%)
 - Library - \$20M (2%)
 - Law Enforcement - \$14M (1%)
 - Total - \$1.034B



IMPACT FEES AND FLORIDA LAW

- Florida Statutes, Section 163.31801 provides;
 - Requires that the calculation of the impact fee be based on the most recent and localized data
 - Requires the financial activity of the fee be accounted for in a separate fund
 - Limits administration charges for the collection of the fee to actual costs
 - Requires that notice be provided no less than 90 days before the effective date of an ordinance or resolution imposing a new or increased impact fee. Fee decreases may be implemented immediately
 - Requires a signed affidavit by the chief financial officer of the local governmental entity or district school board stating compliance with Florida Statute, Section 163
 - The government bears the burden of proving by a preponderance of the evidence the imposition or amount of the fee meets the requirements of the state legal precedent or this section. The court may not use a differential standard.



PALM BEACH COUNTY CHARTER

- Provides that impact fee regulations apply countywide
 - For roads, schools, parks, public buildings, county law enforcement, and solid waste disposal
 - For County fire rescue and County library impact fees in those municipalities whose properties are taxed by the County for library and/or fire rescue
- Without a change to its charter, Palm Beach County can only impose additional types of impact fees and other developer exactions in the unincorporated areas, not the cities



FLORIDA COURTS

- Have determined that local laws imposing impact fees can be a valid exercise of local government police powers
- In testing the validity of an impact fee ordinance, Florida courts look to whether;
 - New development creates the need for the infrastructure
 - Whether the fees assessed are proportionate to the needs created by the new development
 - Whether the feepayer derives a benefit from the application of those fees



MOBILITY

- What is a mobility fee
 - A transportation system charge on development that allows local government to assess the proportionate cost of transportation improvements needed to serve development
 - Mobility Fee Characteristics
 - First adopted in 2011 in Florida
 - Funds facilities & services (existing or new), including road capacity projects
 - Can fund transit & transit-supportive improvements & operations
 - Revenues distributed among benefit districts



ROAD IMPACT FEE VS MOBILITY FEE

ROAD IMPACT FEE

- One-time charge
- Proportionate fee
- Provides new lane-miles of road capacity
- Use of fees restricted to new lane miles and new roads
- Capital infrastructure only

MOBILITY FEE

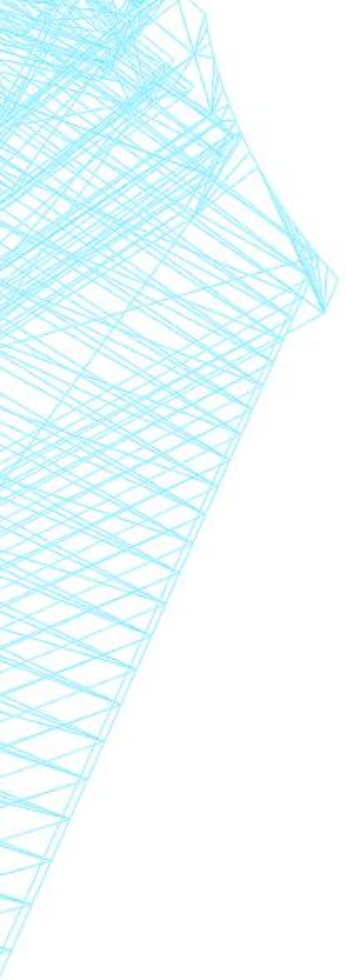
- One-time charge
- Proportionate fee
- New Capacity demand from development
- Fees may be used for roads plus sidewalks, bike paths and transit
- Capital infrastructure plus operations



CAN COUNTY ROAD IMPACT FEE REVENUES BE USED TO FUND CITY MOBILITY PROJECTS?

- **No:**

- Pursuant to the Palm Beach County Charter
- Pursuant to Article 13, of the Unified Land Development Code
- Pursuant to case law



Q&A