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## Critics question impact fee waiver

### Fort Myers defends policy amid concerns

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Fort Myers leaders have waived \$69 million in sewer and water impact fees charged to builders in the past five years and expect to forgo \$90 million more in the coming months.

Those waivers were started in 1992 as a way to spur residential development and annexation in a stagnant, debt-ridden city desperate for a larger tax base. But now Fort Myers is booming with riverfront high-rises and development, leading critics to wonder why leaders keep offering the incentives.

They might not have a choice.

Last year, Fort Myers City Council members set a 2011 expiration on the waivers. Changing it could make the city vulnerable to lawsuits from developers who counted on the waivers when they invested in the city.

Impact fees are one-time charges to cover cost of roads, parks, utilities and other upgrades needed because of growth. Fort Myers forgoes water and sewer fees for residential development.

Fort Myers is the only local city to waive the fees. Bonita Springs Utilities charges at least \$5,885 for water and sewer service. Cape Coral, which charges about \$4,300, is struggling to keep up with the increasing water needs of its rapidly growing city. Among its planned \$493 million improvements are a new water production plant, expanded sewer treatment facilities and new wells. Without the water production plant, leaders expect to run out of capacity in 2007.

"In a growth area, you end up planning for a bigger capacity, meaning essentially current residents are paying for future growth," said Wayne Daltry, Lee County's Smart Growth director.

Impact fees offer alternate funding to stop that, he said. "The money has to come from somewhere."

#### IMPACT FEE TIMELINE

- 1984: Fort Myers began charging impact fees
- 1992: Waived water and sewer impact fees in the Dunbar Enterprise Zone, an area stretching one mile north and south of Dr. Martin Luther King Jr. Boulevard.
- 1994: Waived water and sewer impact fees for single family residences throughout the city.
- 1997: Waived the fees for all residential development.
- 2000: Created current program.
- 2004: Set 2011 expiration.

#### IF YOU GO

- What: Fort Myers workshop on impact fee waivers
- When: 4 p.m., Wednesday, May 25
- Where: Council chambers, 2200 Second St.

#### IMPACT FEE NUMBERS

Arborwood, a 6,500-home golf course community to be built on 2,500 acres east of Interstate 75, received the most impact fee waivers of any project at \$24.5 million. In addition to \$13 million in new taxes that will go into the city's general fund to pay for day-to-day services, the community will increase Fort Myers' utility revenue. Assuming these residences use 5,000 gallons per month, or \$63.15 monthly water and sewer bills, they will add \$4.9 million to the utility revenues. The city's projected costs will increase by \$2.3 million. That leaves a net

Fort Myers officials defend their policy, saying the city is gaining more in new taxes and utility profits than what critics say they give away. But opponents aren't convinced. They fear city utility customers will be stuck paying developers' forgiven bills.

Half a dozen concerned residents urged elected leaders not to approve the more than \$8 million in proposed waivers considered at the May 2 council meeting. "We don't need to do this to attract this development. It will occur," former mayoral candidate Earl Smith said.

Council members agreed to postpone their vote until after a workshop later this month where they could explain the program.

## PAYING FOR GROWTH

City resident Greg Rawl, a water resources consultant, worries Fort Myers' water and sewer systems can't handle the thousands moving into the city and believes new customers should pay for the upgrades.

"Development needs to pay for itself," he said.

But officials said even if they collected the fees, they couldn't spend them the way Rawl wants. In fact, they said, the city likely would have to return much of the money because they wouldn't be able to use it within the required five years.

Impact fees only can be used to pay for new facilities, and Fort Myers doesn't need them.

"We have tons of capacity," said Al Abdo, director of public works. "There's nothing to expand."

A 1985 wastewater plant expansion, paid for by a federal grant, exceeded the city's need. Sewer capacity is 23 million gallons per day. When Fort Myers began the waivers, it used 12 million gallons per day. Today the average is 14 million to 15 million.

So when will the capacity run out? Abdo projects 2009.

The water facility also is in good shape, he said. It has a 12 million gallon capacity with room to expand to 20 million. The city now uses 7.5 million and sells an additional 1.5 million to Lee County. Abdo expects its capacity to be adequate longer than the sewer plant's.

Rawl questioned the figures. His analysis, using 1999 city data and projections, suggested Fort Myers is on the brink of maxing out at peak times now.

City officials aren't worried about going dry before 2011. The ordinance warns that when capacity runs out, so do the waivers.

Expansion or not, some upgrades could be funded by the waived fees. The city's capital improvements budget includes \$180 million in utility projects. About \$40 million would qualify for impact fee funding.

The city is borrowing that money, a move Rawl doesn't understand.

profit of \$2.6 million.

Say the city must borrow to make up for the waived fees. Assuming 5 percent interest for 30 years (a rate higher than the 1.6 percent the city has now), Fort Myers will spend about \$1.6 million on debt.

Subtract that from the profit and the city still is \$1 million ahead.

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"On one hand, they are giving away money. On the other, they are borrowing it," he said. "And in the middle we are paying one of the highest utility fees."

Despite loan interest, the city still comes out ahead because of the new business brought in by the waivers, finance director Jeff Green said.

## **ENTICING NEW RESIDENTS**

Even if the facilities can handle the new residents, why would leaders of a cash-strapped city so willingly give up millions they could collect?

"Waivers do not make sense," said Marsa Detscher, chairwoman for Citizens For a Better Fort Myers. "New growth is supposed to pay for itself. ... I don't get the logic."

Officials see the waivers as incentives in a complicated financial equation — one in which they say the city wins.

Green used cellular phone contracts as an analogy. Companies offer free phones to new customers to get them to sign up for their service, which is where they make the profit. They will give away a \$200 phone to get a customer committed to years of monthly bills.

The impact fee waivers entice new residents, also known as taxpayers and utility customers, according to Green.

"You want to make it easy for people to come to your city," he said, noting that like the cellular companies, Fort Myers is making money.

Green said current customers are not paying for new ones. In fact, he said, new customers will pay to upgrade the old lines in existing neighborhoods.

City utility rates, which are greater than Lee County's, were set higher to cover the projected cost of the project.

"Everyone pays for the old utility lines. Only the new customers are paying for the new development," he said.

## **INCENTIVES 'OUTDATED'**

Fort Myers might make more money from the new residents than it is giving up from the waived fees, but couldn't the city get the newcomers without incentives? In today's hot market, investors scramble to develop, especially the prime property along the Caloosahatchee River. Millions in waived fees go to these developers.

"I think it's outdated," city resident Cindy Butler told the council at the May 2 meeting.

Officials said they need not worry about waterfront development, but those projects aren't the goal.

They add the incentive is most important in enticing property owners now in unincorporated Lee County to annex into the city. These areas, especially gated communities, increase Fort Myers' tax base and bring new customers. It costs the city less for needed services rather than older neighborhoods.

Such annexations are vital for the city's financial health, Green said.

Fort Myers slowly is recovering from a peak \$117 million debt in 2001, when its general fund revenues were \$44 million. By the end of 2004, the city owed less than \$105 million with revenues of \$59 million.

Getting out of debt isn't easy, Green said. "The only way we are going to be able to is to grow our way out of it."

So why not waive the fees for the annexations but not new development? Such favoritism could cause legal problems, the city's counsel advised. So could ending the program sooner than the approved end date, they said.

Detscher disagreed. The city warned developers they won't get waivers if the plants' capacity runs out, so they know they have no guarantee.

"We can stop now," she said. "Enough is enough."

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