Impact Fee Primer

James B. Duncan, FAICP
President – Duncan Associates – Austin, TX

Arthur C. Nelson, Ph.D., FAICP
Presidential Professor – University of Utah, Salt Lake City, UT

Carson Bise, AICP
President – TischlerBise Associates – Bethesda, MD

Virginia Legislature – December 4, 2009
James B. Duncan, FAICP

- President of national consulting firm, Duncan Associates
- Drafted development codes for over 300 clients in 40 states
- Drafted codes for numerous Virginia cities and counties
- Drafted impact fee studies for over 100 clients in 30 states
- Created nation’s 1st online resource: [www.impactfees.com](http://www.impactfees.com)
- Managed nation’s 1st multi-facility impact fee system
- Co-authored nation’s 1st state impact fee enabling act
- Co-authored “Growth Management Principles and Practices”
- Past national president of American Planning Association
Evolution of Impact Fees

- 1970s – Era of Frustration
  - Rapid urbanization
  - Anti-tax revolution

- 1980s – Era of Acceleration
  - Declining State and Federal assistance
  - “Reaganomics” (Public-Private Partnerships)

- 1990s – Era of Maturation
  - “Smart growth”-oriented impact fees
  - Increased state enabling legislation

- 2000s – Era of Frustration II
  - Skyrocketing infrastructure costs and fees
  - Roller coaster real estate markets
“The Perfect Impact Fee Act”

- The “Rational Nexus” Test
  - Need (plans and projections)
  - Benefit (CIPs and service areas)
  - Fair Share (proportionality)
“The Perfect Impact Fee Act”

• Substantive issues
  • Eligible facilities (Be permissive, not prohibitive)
  • Levels of service (Omit “sins of the past”)
  • Crediting (No double charging)
  • Earmarking (Spend wisely)
“The Perfect Impact Fee Act”

- Procedural issues
  - Stakeholder involvement
  - Collections and refunds
  - Timing: Phase-ins and updates
  - Waivers and exemptions