Calculation of Development Impact Fees Under AB1600

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In California, State legislation sets certain legal and procedural parameters for the charging of development impact fees (henceforth referred to as DIFs). This legislation was passed as AB1600 by the California Legislature and is now codified as California Government Code Sections 66000 through 66009. This State law went into effect on January 1, 1989. Prior to that time, there may have been some attempts to rationally calculate impact fees, but quite often, it was a matter of just checking with the neighboring agencies to see what they had adopted.

The sections relevant to the actual calculation of the DIFs are just short of two pages and certainly are not what you would consider a precise set of directions, but then again in no way are they onerous either. And, it may literally mean the collection of hundreds of millions of (one-time) capital revenues to your agency through General Plan build-out.

So, just how can one expect to calculate DIFs based upon two pages of legislation?

Simply prepare a plan that indicates to the development community, what it takes to accommodate their private sector proposals and show that you have a fair way of distributing those development-generated capital costs between the various types of development! If you had to pay these fees, would you require any less of a process?

Some of these five requirements may seem to be self-evident or duplicative, but if your agency is intending to impose a five-figure DIF upon a residential dwelling or a $10.00 per square foot DIF upon retail space, you should be able to demonstrate such findings. Otherwise your DIF calculations may be arbitrary and capricious, words that will send a chill down the backs of city attorney's everywhere! So what is an appropriate methodology consistent with the above requirements of AB1600. Since 1988, RCS has identified the following steps to undertaken in the successful calculation of DIFs:

1. Review the agencies land-use map and determine the existing mix of land uses and amount of undeveloped and developed land. The magnitude of growth and its impacts can thus be determined by considering this land use data when planning needed infrastructure.

2. Define the existing level of service for each infrastructure the city supports. In most cases RCS uses the de facto levels of service as opposed the desired levels of service to avoid any Dolan decision problems). Examples include: arterial intersections are based on a target LOS scale of "C", the police station has 250 square foot per officer, there is 0.385 square feet of library space per resident, etc.

3. Identify all additions to the capital facilities or equipment inventory necessary to maintain the various identified levels of service in the area and accommodate new development, through General Plan build-out (not merely for a 3 to 5 year CIP). Then, determine the cost of those capital additions. RCS prepares this as a separate document identified as the agency's Master Facilities Plan and is similar to any common utility Master Plan, but it encompasses the City's entire set of infrastructure. It is the major General Plan Element that is surprisingly not required, the Financial Element, or price tag if you will, of your General Plan statements regarding service. Among many of the collateral benefits, it gives the legislative body an idea of what is needed not only for their respective terms, but for the future. As a consultant, I do not know why each agency does not have such a document already but as former employee in four California cities I realize that daily operations time demands will all but consume long-range planning efforts.

4. Identify a level of responsibility, which is the relative need for the facility or equipment necessary to accommodate "growth" as defined, and as opposed, to current needs. Some good questions to ask yourself: Would this project be necessary even if there is no new development expected? Does it create additional infrastructure capacity such as more lane miles, storm collection capacity, an additional fire engine company or is it merely the replacement of an existing aged asset?

5. Distribute the capital costs identified resulting from new development on a basis of land use. Costs are distributed between each differing land use based on their relative (or proportional) use of the various infrastructure systems, each with a differing demand factor. This demand factor is what is commonly called the nexus (although nexus more correctly applies to the entire process describer herein). For example, future street costs can be distributed to each land use based on their trip generation characteristics (i.e. trip-miles). Why would this step be necessary? Why not just charge everyone the same amount, say $5.00 per square foot of building pad? Consider the same single acres with six private sector proposals to develop one of the following: Four Detached Dwellings, Sixteen Attached Dwellings, Twelve Mobile Home Dwellings, Twenty Motel or Hotel Units, 12,000 square feet of Retail/Office use, or 24,000 square feet of Industrial use. Obviously, a fixed DIF of $5.00 per square foot would not be fair to anyone. Simply stated, each of the six private sector proposals will create differing amounts of new demand, in terms or law enforcement, fire suppression/medic services, master planned streets, whatever the infrastructure and each DIF must reflect those differences to be reasonable.

To summarize, the goal is simple: you must identify to the development community what additional infrastructure has to be built to accommodate their private development, calculate, impose and collect DIFs in a fair manner, then build the infrastructure you said was needed! The process is not insurmountable, but it does require some investment of time from the planning staff and the infrastructure managers (the persons most responsible for each service's infrastructure). Go through the effort. Its simply good management.

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