

**Lee County Board Of County Commissioners
Agenda Item Summary**

Blue Sheet No. 20050440

1. ACTION REQUESTED/PURPOSE: Direct amendments to the Land Development Code (LDC) pertaining to Regional Parks and Community Parks impact fees to public hearings as follows:

First Public Hearing - May 10, 2005
Second Public Hearing - May 24, 2005

2. WHAT ACTION ACCOMPLISHES: Sets hearing dates for the Board of County Commissioners for advertising purposes.

3. MANAGEMENT RECOMMENDATION: Approve and Direct to Public Hearing.

4. Departmental Category: 04
Commission District #CW

C12A

5. Meeting Date: *04-12-2005*

6. Agenda:
 Consent
 Administrative
 Appeals
 Public
 Walk-On

7. Requirement/Purpose: (specify)
 Statute
 Ordinance
 Admin. Code
 Other

8. Request Initiated:
Commissioner _____
Department County Attorney
Division Land Use
By: *[Signature]*
Joan C. Henry,
Assistant County Attorney

9. Background:

Previously, the Board approved a contract with Duncan Associates to assist in the review of the Lee County Regional Parks and Community Parks Impact Fees. Based upon the diligent efforts of County staff and Duncan Associates, a Park Impact Fee Update has been prepared. A copy of this report is attached for your review.

It is the intent of staff to revise the Regional Parks and Community Parks impact fee regulations found in Chapter 2 of the LDC in accordance with this study. An ordinance setting forth these amendments is attached for your review.

Staff is requesting direction to public hearing at this time to provide advance information and notice to the general public as to the anticipated changes.

Attachment: Park Impact Fee Update by Duncan Associates (dated March 2005)
Draft Ordinance

10. Review for Scheduling:

Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services				County Manager/P.W. Director
					Analyst	Risk	Grants	Mgr.	
				<i>[Signature]</i>	<i>RK 3/29</i>	<i>08 3/30/05</i>	<i>3/30/05</i>	<i>3/30/05</i>	<i>[Signature]</i>

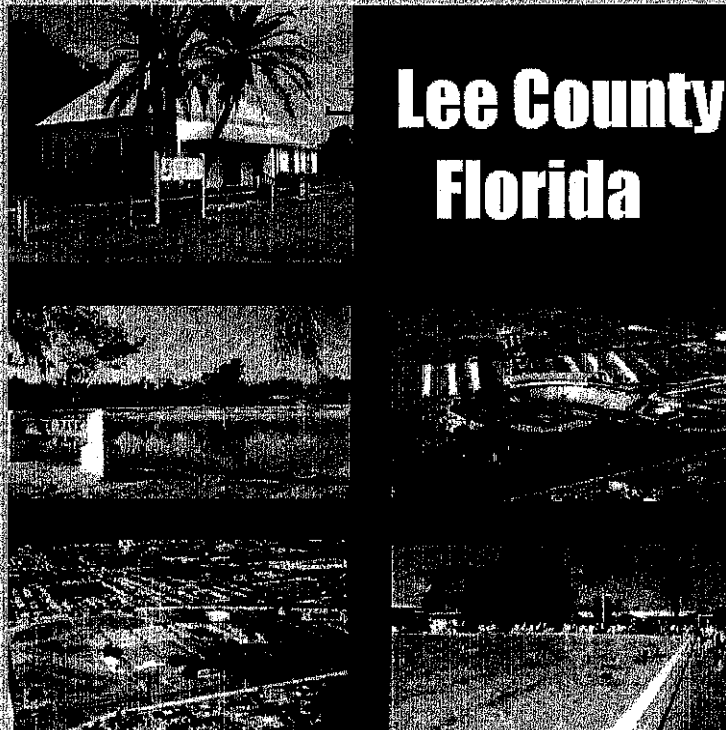
11. Commission Action:

- Approved
- Deferred
- Denied
- Other

CO. ATTY.
FORWARDED
TO CO. ADMIN.
3/29/05 2:00 PM

RECEIVED BY
COUNTY ADMIN: *[Signature]*
3-29-05 mp
8:55
COUNTY ADMIN
FORWARDED TO: *[Signature]*
3/31/05
4:30 pm

Park Impact Fee Update



prepared by

duncan|associates

March 2005

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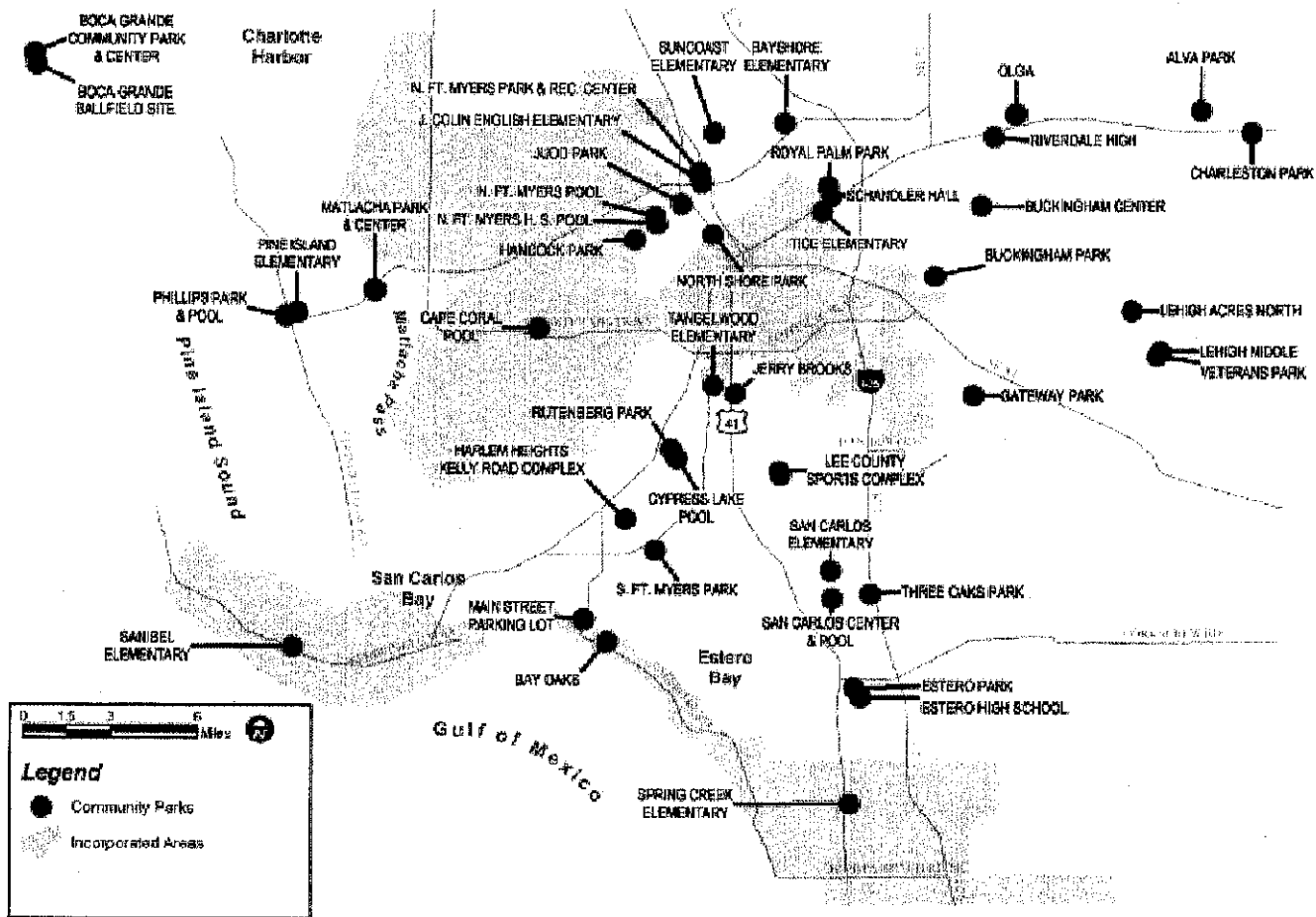
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INTRODUCTION

Lee County operates and maintains a wide variety of parks and recreational facilities for the benefit of county residents and visitors (see Figures 1 and 2). To ensure that new development contributes to the cost of capital improvements needed to maintain existing levels of service of parks and recreation facilities, the County has charged park impact fees since 1985. These fees were last updated in 2001. The purpose of this study is to determine the proportionate fair share of the capital costs of new park facilities that can be assessed on new development through updated park impact fees.

**Figure 1
EXISTING COMMUNITY PARKS**



Lee County first adopted park impact fees in 1985. At that time there was a single park fee that was informally divided into two components—regional and community parks. In 1989, the park impact fee was formally divided into separate regional and community park impact fees. Also in 1989, the fees were adjusted downward to reflect lower unit occupancy, but the fees still increased slightly because the discount was reduced from 20 percent to 10 percent. In 1990 and 2001, comprehensive updates of the park impact fees were conducted. The history of combined regional and community park impact fees assessed by Lee County is shown in Table 1.

Table 1
HISTORY OF PARK IMPACT FEES

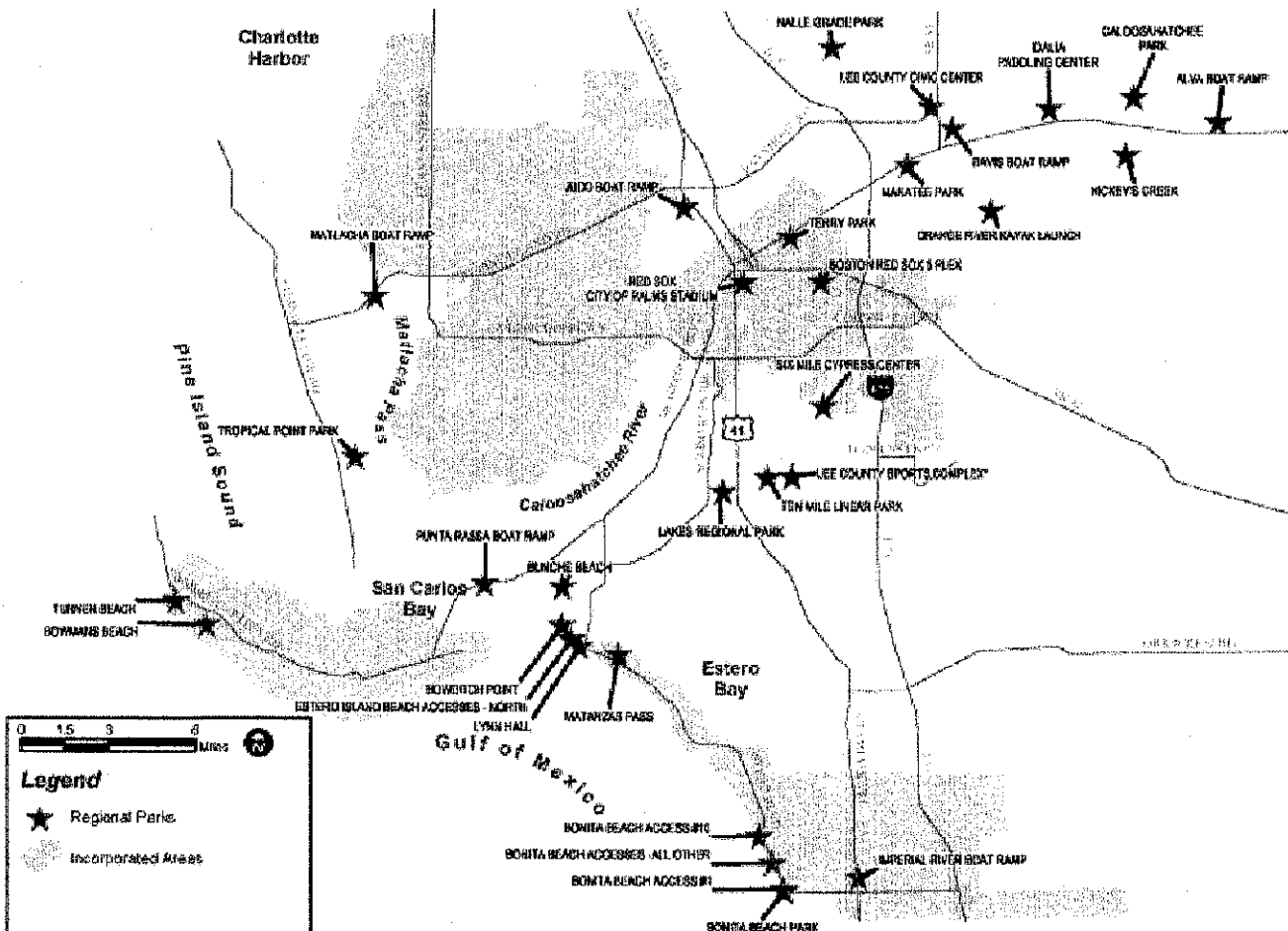
Housing Type	Unit	1985	1989	1990	2001
Single-Family Detached*	Dwelling	\$562	\$579	\$872	\$1,116
Multi-Family**	Dwelling	\$371	\$382	\$539	\$826
Timeshare	Dwelling	\$788	\$811	\$1,095	\$826
Mobile Home	Dwelling	\$470	\$484	\$649	\$780
RV Park	Pad	\$342	\$386	\$616	\$780
Hotel/Motel	Room	\$342	\$386	\$596	\$557

* includes mobile home not located in mobile home park

** includes duplex, two family attached, townhouse, residential condominium, and apartment

Source: Lee County Ordinances 85-24, 89-14, 89-16, 90-48 and 01-13.

Figure 2
EXISTING REGIONAL PARKS



LEGAL FRAMEWORK

Impact fees are a way for local governments to require new developments to pay a proportionate of the infrastructure costs they impose on the community. In contrast to traditional “negotiated” developer exactions, impact fees are charges that are assessed on new development using a standard formula based on objective characteristics, such as the number of dwelling units constructed or vehicle trips generated. The fees are one-time, up-front charges, with the payment usually made at the time of building permit issuance. Essentially, impact fees require that each new development project pay its pro-rata share of the cost of new capital facilities required to serve that development.

Since impact fees were pioneered in states like Florida that lacked specific enabling legislation, such fees have generally been legally defended as an exercise of local government’s broad “police power” to regulate land development in order to protect the health, safety and welfare of the community. The courts have developed guidelines for constitutionally valid impact fees, based on “rational nexus” and “rough proportionality” standards.¹ The standards set by court cases generally require that an impact fee meet a three-part test:

- 1) The need for new facilities must be created by new development (first prong of the dual rational nexus test);
- 2) The expenditure of impact fee revenues must provide benefit to the fee-paying development (second prong of the dual rational nexus test);
- 3) The amount of fee charged must not exceed a proportional fair share of the cost to serve new development (rough proportionality standard).

A Florida district court of appeals described the dual rational nexus test in 1983 as follows, and this language was quoted and followed by the Florida Supreme Court in its 1991 *St. Johns County* decision:²

In order to satisfy these requirements, the local government must demonstrate a reasonable connection, or rational nexus, between the need for additional capital facilities and the growth in population generated by the subdivision. In addition, the government must show a reasonable connection, or rational nexus, between the expenditures of the funds collected and the benefits accruing to the subdivision. In order to satisfy this latter requirement, the ordinance must specifically earmark the funds collected for use in acquiring capital facilities to benefit the new residents.

¹There are six Florida cases that have guided the development of impact fees in the state: *Contractors and Builders Association of Pinellas County v. City of Dunedin*, 329 So.2d 314 (Fla. 1976); *Hollywood, Inc. v. Broward County*, 431 So.2d 606 (Fla. 1976); *Home Builders and Contractors Association of Palm Beach County, Inc. v. Board of County Commissioners of Palm Beach County*, 446 So.2d 140 (Fla. 4th DCA 1983); *Seminole County v. City of Casselberry*, 541 So.2d 666 (Fla. 5th DCA 1989); *City of Ormond Beach v. County of Volusia*, 535 So.2d 302 (Fla. 5th DCA 1988); and *St. Johns County v. Northeast Florida Builders Association*, 583 So. 2d 635, 637 (Fla. 1991).

² *Hollywood, Inc. v. Broward County*, 431 So. 2d 606, 611-12 (Fla. 4th DCA), review denied, 440 So. 2d 352 (Fla. 1983), quoted and followed in *St. Johns County v. Northeast Florida Builders Ass'n*, 583 So. 2d 635, 637 (Fla. 1991).

The Need Test

To meet the first prong of the dual rational nexus test, it is necessary to demonstrate that new development creates the need for additional parks and recreational facilities. The State's *Growth Management Act* requires that counties establish levels of service for parks and recreational facilities and a plan for ensuring that such standards are maintained.³ The County's comprehensive plan expresses the County's commitment to maintaining specified levels of service in terms of park facilities per 1,000 residents (see section of this report on Level of Service). The county's rapidly-growing population creates demands for new park facilities in order to maintain acceptable levels of service. As shown in Table 2, the permanent, year-round population of the county grew 32 percent during the 1990s. While the population of the unincorporated area has been reduced by the incorporation of two new municipalities during the decade, it has still continued to grow at a significant pace.

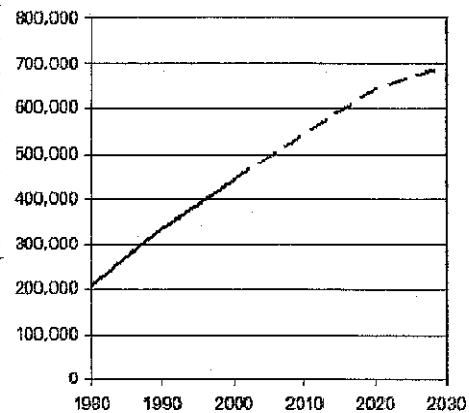
Table 2
POPULATION GROWTH, 1990-2000

Jurisdiction	1990	2000	Increase
Fort Myers	45,206	48,208	7%
Cape Coral	74,991	102,286	36%
Sanibel	5,468	6,064	11%
Fort Myers Beach	n/a	6,561	n/a
Bonita Springs	n/a	32,797	n/a
Subtotal, Incorporated	125,665	195,916	56%
Subtotal, Unincorporated*	209,448	244,972	17%
Total, County-Wide	335,113	440,888	32%

* 1990 figure includes area that is not Fort Myers Beach and Bonita Springs
Source: U.S. Census Bureau (Fort Myers Beach incorporated 12/31/95, Bonita Springs incorporated 12/31/99)

There is every indication that the strong growth the county has experienced in recent years will continue. Population projections prepared by the Southwest Florida Regional Planning Council indicate that the county will continue to add about 10,000 new residents each year through the year 2020.⁴ Only after 2020 will the growth begin to taper off, as illustrated in Figure 3. Continuing strong population growth will create growing demands for community and regional park facilities to maintain current levels of service. This growth-induced need for parks capital improvements is reflected in the County's *FY 2003/04-2007/08 Capital Improvement Program*, which programs \$131 million for community and regional park improvements over the next five years.

Figure 3
LEE COUNTY POPULATION



³ Section 163.3177(3)(a), Florida Statutes, provides that "The comprehensive plan shall contain a capital improvements element designed to consider the need for and the location of public facilities [defined to include parks and recreation] in order to encourage the efficient utilization of such facilities and set forth ... the adequacy of those facilities including acceptable levels of service."

⁴ Southwest Florida Regional Planning Council, *Volume One of the Strategic Regional Policy Plan*, March 2002 projects that Lee County's population will increase from 440,888 in 2000 to 642,222 in 2020.

The community and regional park impact fees are imposed on new residential and hotel/motel development. These new developments will allow the continued growth of the residential and tourist population in Lee County. The increased population will result in increased demand for parks and recreational facilities. If the County is to maintain its current levels of service of parks facilities, expressed as the ratio of acres of park land per 1,000 population, it will have to acquire and develop additional community and regional parks.

The Benefit Test

To meet the second prong of the dual rational nexus test, it is necessary to demonstrate that new development subject to the fee will benefit from the expenditure of the impact fee funds. One requirement is that the fees actually be used to fill the need that serves as the justification for the fees under the first part of the test. The park impact fee ordinances contain provisions requiring that impact fee revenues be spent only on growth-related capital improvements for the type of park facility (community or regional) for which the fee was collected. For example, the regional park impact fee ordinance states that the “Funds collected from regional parks impact fees must be used for the purpose of capital improvements for regional parks,”⁵ and defines “capital improvement” as:

*land acquisition, site improvement, including landscape plantings and the removal of exotic vegetation, off-site improvements associated with a new or expanded regional park, buildings and equipment. Off-site improvements may also include bikeways that connect to the park facility. Capital improvements do not include maintenance and operations.*⁶

These provisions ensure that park impact fee revenues are spent on park improvements that expand the capacity of the park system to accommodate new users, rather than on the maintenance or rehabilitation of existing park facilities or other purposes.

Another way to ensure that the fees be spent for their intended purpose is to require that the fees be refunded if they have not been used within a reasonable period of time. The Florida District Court of Appeals upheld Palm Beach County’s road impact fee in 1983, in part because the ordinance included refund provisions for unused fees.⁷ Both of Lee County’s park impact fee ordinances contain provisions requiring that the fees be returned to the fee payer if they have not been spent or encumbered within six years of fee payment.

For regional park facilities, these above provisions are sufficient to show benefit. Regional park facilities, which are either natural resource-based or contain significant athletic facilities, draw users from a wide area and provide benefit to developments throughout the county. Community park facilities, in contrast, serve a more limited geographic area.

For the purpose of the community park impact fees, the unincorporated area of the county, plus Sanibel, is currently divided into eight benefit districts (see section on Benefit Districts). The community park impact fee ordinance provides that impact fee funds collected from development

⁵ Lee County Land Development Code, Sec. 2-310(a)

⁶ Lee County Land Development Code, Sec. 2-304

⁷ *Home Builders Ass'n v. Board of County Commissioners of Palm Beach County*, 446 So. 2d 140 (Fla. Dist. Ct. App. 1983)

within a benefit district must be spent within that benefit district or on an improvement that will benefit such district:

Sec. 2-350. Use of funds.

(a) Funds collected from community parks impact fees must be used for the purpose of capital improvements for community parks. Except as provided in subsection (c) of this section, community parks impact fee collections, including any interest earned thereon, less administrative costs retained pursuant to subsection (d) of this section, must be used exclusively for capital improvements for community parks within or for the benefit of the community parks impact fee benefit district in which the funds were collected. ...

...

(c) Unless prohibited by an appropriate interlocal agreement, monies placed in one community parks impact fee trust fund may be borrowed and placed in another community parks impact fee trust fund so long as the Board of County Commissioners first determines in a public meeting that the loans will not disrupt or otherwise alter the timing of provision of capital facilities to the lending district and will be repaid from specifically identified revenue sources within two years, either from the borrowing district or from some other source, with interest at a rate established by the board at the time it authorizes the loan

...

In this update, modest changes to the community park impact fee benefit district boundaries are proposed that are designed to strengthen the relationship between impact and benefit. The most significant proposed change is to replace District 1, which consists mostly of incorporated Fort Myers, with a new northeast district that includes substantial unincorporated area in the areas of Alva and Fort Myers Shores.

In sum, ordinance provisions requiring the earmarking of funds, refunding of unexpended funds to fee-payers, and restriction of community park impact fee revenues to be spent within the eight benefit districts (nine counting the Gateway subdistrict) in which they were collected ensure that the fees are spent to benefit the fee-paying development.

Rough Proportionality Test

In addition to the dual rational nexus test established by the Florida courts, impact fees must also meet Federal constitutional requirements for a regulatory fee. The most important recent legal development regarding development fees is the 1994 decision of the U.S. Supreme Court in *Dolan v. City of Tigard*.⁹ In *Dolan*, the Supreme Court expanded upon the rational nexus test, adding to it a requirement that there be a "rough proportionality" between the impact of a proposed development and the burden of the exaction imposed on it. The Court suggested that the calculation of proportionality should be based on an "individualized determination." That is exactly what an impact fee system does. An impact fee system takes the individualized facts of a proposed development and computes the estimated traffic impact of that development (an individualized determination) and then bases the fee on that computation (giving us something even better than a "rough" proportionality).

The County's park impact fees are proportional to the number of people expected to reside in the development during peak season conditions. Since it is the growth in population that results in the need for additional parks and recreation facilities, and since facilities must be sized to meet peak conditions,

⁸ Lee County Land Development Code, Sec. 2-350

⁹ *Dolan v. City of Tigard*, 512 U.S. 374, 129 L. Ed. 2d 304, 114 S. Ct. 2309 (1994)

this methodology ensures that the park impact fees assessed are proportional to the impacts of the development. In addition, the park impact fee ordinances each contain provisions allowing an applicant who believes that his development will have less impact than indicated by the fee schedules to submit an independent fee calculation study.

BENEFIT DISTRICTS

There are two kinds of geographic areas in impact fee systems: service areas and benefit districts. A service area, also sometimes called an assessment district, is an area that is served by a defined group of capital facilities and is subject to a uniform impact fee schedule. A benefit district is an area within which fees collected are earmarked to be spent.

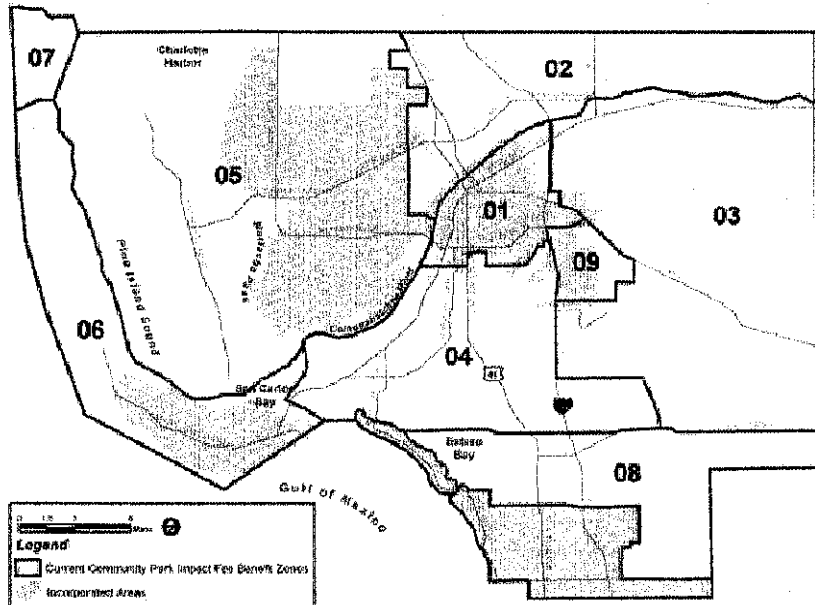
The regional park impact fees are based on the entire population of the county, including residents in the municipalities as well as in the unincorporated area. The entire county is a single service area and benefit district for regional park impact fees, and regional park impact fee revenues may be spent anywhere within the county. Prior to the 2001 update, Fort Myers and Sanibel collected the County's regional park impact fee pursuant to interlocal agreements. Since the 2001 update, Fort Myers no longer collects regional park impact fees, since the amount of credit for the Red Sox Stadium was determined to be more than the fee. The other three municipalities—Fort Myers Beach, Bonita Springs and Cape Coral—assess their own park impact fees.

The County's community park system is designed to serve primarily the unincorporated areas of the county, and the County's community park impact fees are not collected within any of the municipalities except for Sanibel, which collects them pursuant to an intergovernmental agreement. The County's only community park on Sanibel or Captiva islands is at Sanibel Elementary School, which serves municipal as well as unincorporated area residents. Consequently, the service area for community parks is the unincorporated area of the county plus the City of Sanibel.

The community park service area is subdivided into eight community park impact fee benefit districts (see Figure 4). In addition, a subdistrict for the Gateway Development of Regional Impact (DRI) area (named District 9) has been created within District 3. Impact fees collected within each district are earmarked to be spent on community parks within that same district. Impact fees may be spent on an improvement in an adjacent district if the improvement will provide benefit to the fee-paying development.

In the three years since the fees were last updated,¹⁰ community and regional park impact fee revenue collected by the County from new development in the unincorporated area has increased steadily, from \$5.5 million in FY 2002 to \$7.5 million in FY 2003 to \$9.8 million in FY 2004 (see Table 3).

**Figure 4
CURRENT BENEFIT DISTRICTS**



¹⁰ The updated fees went into effect on September 15, 2001, and the County's fiscal year starts on October 1.

**Table 3
PARK IMPACT FEE REVENUES, FY 2002-2004**

Benefit District	FY 01-02	FY 02-03	FY 03-04
1 - Unincorporated Fort Myers	\$18,234	\$23,378	\$35,227
2 - N. Fort Myers/Alva	\$174,467	\$189,163	\$245,484
3 - East Lee Co./Lehigh Acres	\$888,045	\$1,306,398	\$2,460,436
4 - S. Fort Myers	\$1,176,359	\$1,731,940	\$1,821,273
5 - Pine Island	\$89,373	\$162,811	\$190,210
6 - Sanibel/Captiva	\$19,724	\$8,515	\$3,275
7 - Boca Grande	\$3,930	\$3,930	\$3,311
8 - Estero	\$693,911	\$793,868	\$733,360
9 - Gateway (subdistrict of 3)	\$56,510	\$93,565	\$198,870
Subtotal, Community Parks	\$3,120,553	\$4,313,568	\$5,691,446
Regional Parks	\$2,346,443	\$3,147,576	\$4,089,712
Total Park Impact Fee Revenues	\$5,466,996	\$7,461,144	\$9,781,158

Source: Lee County Impact Fee Coordinator, October 19, 2004 (value of credits for in-kind contributions included in revenues).

While the benefit districts appear to be working reasonably well, the consultant and County staff propose making some changes to the districts to reflect demographic and political changes since they were first created 20 years ago. The recommended changes are shown in Figure 5.

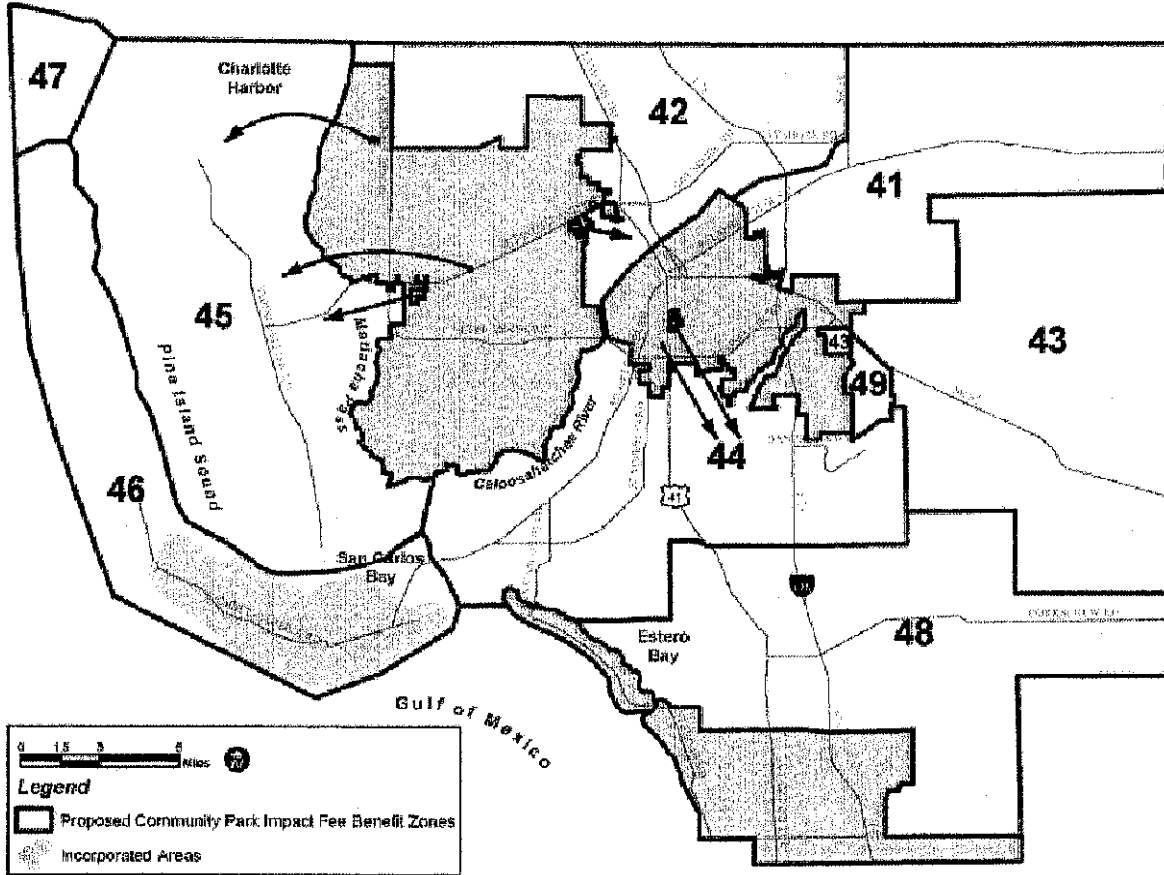
One change would be to exclude the incorporated area of municipalities, except for Sanibel, from the benefit districts, since the County's community parks are not intended to provide other than incidental service to municipal residents. The boundaries of the new benefit districts that are adjacent to municipal boundaries would use the municipal city limits as their boundary, and if that boundary changes due to annexation, the boundary of the benefit district would automatically change as well. Enclaves of unincorporated area within municipalities would be assigned to an adjacent benefit district, as shown in Figure 5.

The recommended benefit district boundaries generally follow easily identifiable geographic or physical features (e.g. Caloosahatchee River, I-75), municipal boundaries or section lines. This makes the administrative determination of the appropriate benefit district easier to determine than some of the existing boundary lines. In addition, the nomenclature of the districts has been changed to avoid confusion with the previous districts and conform to the needs of the County's record-keeping system.

The number of benefit districts would remain the same, but the incorporated area would generally fall into smaller districts. This is primarily because the current District 1, which is now made up almost entirely of incorporated Fort Myers and no longer functions as a workable County benefit district, is essentially swapped for the new district 41 in the northeast part of the county. District 2 becomes 42, giving the area east of SR 31 to the new District 41 and gaining the area north of Cape Coral, which used to belong to District 5. District 3 becomes a significantly smaller District 43, giving up some of its northern area to the new District 41 and some of its southern area to the two adjacent districts to the south. District 4 becomes District 44, losing some of its southern area to District 8 and gaining some area to the east from District 3. District 5 becomes a smaller District 45, losing the area north of Cape Coral to the old District 2. Districts 6 and 7 are unchanged, but are renumbered 46 and 47 to be consistent with the new numbering scheme. District 8 becomes District 48, which has been given parts

of the adjacent Districts 3 and 4 to compensate for the fact that much of its former area is now in the City of Bonita Springs. The old District 9, which is now officially a subdistrict of District 3, primarily serves the Gateway development and is proposed to become District 49, a separate benefit district that formerly covered a somewhat larger area but is now to be limited just to the Gateway DRI development.

**Figure 5
PROPOSED COMMUNITY PARK BENEFIT DISTRICTS**



LEVEL OF SERVICE

Lee County's comprehensive plan, the *Lee Plan*, specifies several level-of-service standards for various types of parks and recreational facilities. These include both a "regulatory" standard and a "desired" standard. For regional parks, the regulatory standard is seven acres of regional parks per 1,000 peak seasonal residents of the entire county, including municipal residents and visitors. The acres used in calculating this standard are improved acres that are open for public use, and include regional parks operated by federal, state and municipal governments. The existing level of service is somewhat higher than the desired standard of eight acres per 1,000 persons. For community parks, the regulatory standard is 0.8 acres of developed community parks per 1,000 permanent, year-round residents in each of the eight community park benefit districts. Some of these community parks are on land owned by the school district, but have been improved and are maintained and operated by the County. The desired level-of-service standard set forth in the *Lee Plan* is to achieve two acres per 1,000 residents.

Impact fees are usually based on the existing levels of service, rather than adopted or desired levels of service. In Lee County's case, the existing level of service generally falls between the regulatory standard and the desired standard. Consequently, using one of the adopted standards would result in impact fees that were either too high or too low.

The adopted level of service standards, which are expressed in terms of acres per thousand persons, are better suited for park planning purposes than for calculating appropriate impact fees. The levels of service used in calculating park impact fees generally rely on the replacement value of existing park land and improvements, rather than on acres, since, for example, an acre of intensively-developed park land is not equivalent to an acre of open space or passive recreation land.

While the County's adopted level of service standards for community parks are based on permanent, year-round residents, tourists and visitors make use of community parks as well as regional parks.¹¹ It is therefore recommended that the community park fees should continue to be assessed on hotel and motel units. The fees for community parks, like the fees for regional parks, should be based on peak season conditions.

Estimates of existing housing units are more accurate than population estimates, because to estimate population requires additional assumptions about what percentage of units are occupied. The park impact fees can more reliably be based on the number of dwelling units (and hotel/motel rooms), without having to deal with the intervening variable of occupancy rates. Consequently, the denominator used in the impact fee level of service measure will be equivalent single-family dwelling units, rather than population.

This study continues the approach of basing the park impact fees on the existing level of service, and measuring that level of service in terms of the ratio of the replacement value of existing facilities to some measure of existing residential development. The measure of existing development is the subject of the next section.

¹¹ In a survey taken on September 15, 2004 for the Lee County Parks and Recreation Department of users in five community parks, 1.3 percent of park users described themselves as a tourist or visitor and another 1.3 percent described themselves as a seasonal resident. By comparison, hotels and motels account for only 1.9 percent of community park equivalent dwelling units (see Table 6).

SERVICE UNIT

Disparate types of development must be translated into a common unit of measurement that reflects the impact of new development on the demand for park facilities. This unit of measurement is called a "service unit." As discussed earlier, this report recommends the use of a service unit that avoids the need to make assumptions about occupancy rates. This service unit is the "equivalent dwelling unit" or EDU, which represents the impact of a typical single-family dwelling. By definition, a typical single-family unit represents, on average, one EDU. Other types of units each represent a fraction of an EDU, based on their relative average household sizes.

The level of service for park facilities is measured in terms of population, because demand for park facilities is proportional to the number of people in a dwelling unit. Consequently, data on average household size for various types of units is a critical component of a park impact fee. The most recent and reliable data on average household size in Lee County is the 2000 U.S. Census.

In the 2001 park impact fee update, average household size was based on data for new units, defined as those built in the last ten years. While new units do tend to have more residents than average, the fees are not based directly on household size, but on EDUs. The EDUs by housing type will be virtually identical, regardless of whether they are based on average household size of new units or all units.¹²

Given that average household sizes for new units and all units will yield essentially the same EDU multipliers, the EDUs for this update will be based on the larger sample derived from all households in Lee County. The fraction of an EDU associated with other housing types are shown in Table 4. Beginning with the 2001 park impact fee update, time-share units have been included with other multi-family units, since the distinction is based on the ownership and operation of the complex, rather than on the type of structure. In addition, mobile home and recreational vehicle parks are included in the same housing category.

Table 4
EQUIVALENT DWELLING UNIT MULTIPLIERS

Land Use	Unit of Measure	Household Population	Occupied Units	Household Size	EDUs/Unit
Single-Family Detached	Dwelling	278,512	107,438	2.59	1.00
Multi-Family/Timeshare	Dwelling	107,832	55,403	1.95	0.75
Mobile Home/RV Park	Dwelling	48,927	25,758	1.90	0.73
Hotel/Motel	Room	n/a	n/a	1.20	0.46

Source: Household population and occupied units in Lee County from 2000 Census, SF-3 1-in-6 sample data; average household size for hotel/motel rooms is one-half average room occupancy from information provided by property managers in 2004 per Research Data Services, Inc., February 28, 2005 memorandum; EDUs/unit is ratio of average household size to single-family detached average household size.

¹² For example, 2000 US Census 5% Public Use Micro Sample (PUMS) data for Lee County indicate that the average household sizes of units built during the 1990s are 2.65 persons for single-family detached units, 2.03 persons for multi-family and 2.01 for mobile homes. Average household sizes from the same data source for all units are 2.56 persons for single-family detached, 1.97 for multi-family and 1.91 for mobile home. The multi-family EDUs per unit would be 0.77 for both new units and all units, and the mobile home EDUs would be 0.76 for new units and 0.75 for all units. While these numbers differ slightly from those presented in Table 4, due to the smaller sample size, they illustrate that the EDU multipliers will be virtually the same regardless of whether they are based on new units or all units.

In order to determine the existing level of service, it is necessary to estimate the total number of EDUs, both county-wide for the regional park impact fee, and in the unincorporated area (plus Sanibel) for the community park fee. The first step is to compile an estimate of existing dwelling units. The 2000 Census enumerated dwelling units existing as of April 1, 2000. Adding the dwelling units authorized by building permits issued in the first four years and nine months of this decade yields estimates of dwelling units as of January 1, 2005. These estimates are summarized in Table 5.

**Table 5
EXISTING RESIDENTIAL DEVELOPMENT**

Land Use	2000	-----Annual New Units Permitted-----					Est. 1/2005
	Census	2000	2001	2002	2003	2004*	
Single-Family Detached	68,384	2,772	3,241	3,394	4,412	4,728	86,931
Multi-Family/Timeshare	44,447	3,148	3,283	2,466	3,637	3,458	60,439
Mobile Home/RV	33,117	133	154	224	262	87	33,977
Total, Comm. Park Serv. Area**	138,871	6,053	6,678	6,084	8,311	6,547	172,544
Single-Family Detached	122,543	5,018	6,641	7,208	9,632	9,858	160,900
Multi-Family/Timeshare	82,920	3,832	3,741	3,058	4,462	4,676	102,689
Mobile Home/RV	39,942	148	168	236	269	93	40,856
Total, Reg. Park Serv. Area***	245,405	8,998	10,550	10,502	14,363	14,627	304,445

* first nine months ** unincorporated area plus City of Sanibel *** all of Lee County
 Source: 2000 dwelling units from 2000 U.S. Census, SF-3 1-in-6 sample data; annual units permitted January 2000 through September 2004 from Lee County Community Development Department, November 22, 2004 memorandum; City of Fort Myers Community Development Department, October 12, 2004 memorandum; and U.S. Census (<http://censtats.census.gov/>).

The final step in determining total service units is to multiply the number of existing residential units by the EDUs per unit calculated earlier based on relative average household sizes. To determine the total EDUs for the purpose of the community park impact fee, the number of existing dwelling units of each housing type in the unincorporated area (plus Sanibel) is multiplied by the appropriate EDUs per unit and the results for all housing types are summed.

Regional parks serve the entire county, and for this reason the EDUs for regional parks are based on county-wide dwelling counts. The County could assess these fees countywide, but has so far chosen not to. Until the last update, the City of Fort Myers assessed the regional fee pursuant to an interlocal agreement with the County, and there is nothing to prevent the County from entering into similar agreements with other cities. Dividing regional park costs by county-wide EDUs ensures that costs are allocated among all residential development in the county, not just development in the unincorporated area.

As shown in Table 6, there are 160,062 park service units (EDUs) in the unincorporated parts of the county, and 273,320 park service units county-wide.

**Table 6
EXISTING PARK EQUIVALENT DWELLING UNITS**

Land Use	Unit of Measure	Existing Units	EDUs/ Unit	Total EDUs
Single-Family Detached	Dwelling	86,931	1.00	86,931
Multi-Family/Timeshare	Dwelling	60,439	0.75	45,329
Mobile Home/RV Park	Dwelling	33,977	0.73	24,803
Hotel/Motel	Room	6,519	0.46	2,999
Community Park EDUs, Unincorporated Area plus Sanibel				160,062
Single-Family Detached	Dwelling	160,900	1.00	160,900
Multi-Family/Timeshare	Dwelling	102,689	0.75	77,017
Mobile Home/RV Park	Dwelling	40,856	0.73	29,825
Hotel/Motel	Room	12,126	0.46	5,578
Regional Park EDUs, County-Wide				273,320

Source: Existing dwelling units from Table 5; hotel/motel rooms based on 2002 rooms and 1989-2002 growth rate in rooms from Lee County Visitor and Convention Bureau, December 2002; EDUs/unit from Table 4.

CAPITAL COST

As part of the impact fee update, the County retained an appraiser to determine appropriate park land costs for the fee calculations. The appraiser identified 42 sales throughout Lee County over the last three years that were comparable to most new community and regional park sites, other than very large, resource-based regional parks and very small beach parks or boat ramps. These typical park sites ranged from 11 to 100 acres in size. In addition, six sales of sites in 2002 and 2003, ranging from 80 to over 2,000 acres in size, were determined to be comparable to large, resource-based regional parks. Finally, seven sales of beach sites in 2003 and 2004, ranging from one-quarter to seven acres in size, were determined to be comparables for very small beach parks and boat ramps. Purchases prior to 2002 were not considered relevant due to the rapidly-changing values of land in Lee County.

The appraiser interviewed either the buyer, seller or agent involved in each transaction to verify the selling price, financing, motivation to purchase and sell and any lease and/or income expense information. The appraiser considered both weighted and transactional averages, and gave heavier weight to more recent sales. A summary of some of the most significant data from the appraiser's report, along with the appraiser's opinions of the current costs of land in Lee County for community/regional parks, resource-based parks and beach parks, is presented in Table 7.

Table 7
AVERAGE PARK LAND COSTS PER ACRE

Year	No. of Sales	Aggregate Adjusted* Sales Price	Aggregate Acres	Weighted Average Cost/Acre	Transactional Average Cost/Acre
Community/Regional Parks:					
2002	14	\$24,129,993	799.14	\$30,195	\$34,843
2003	21	\$65,800,792	1,033.64	\$63,659	\$69,357
2004	7	\$14,747,220	207.26	\$71,153	\$66,495
3-Year Total	42	\$104,678,005	2,040.04	\$51,360	\$57,455
2-Year Total	28	\$80,548,012	1,240.90	\$56,944	\$64,911
Appraiser's Opinion				\$65,000	
Resource-Based Parks:					
2002	2	\$1,275,500	186.20	\$6,850	\$6,982
2003	4	\$13,883,600	2,862.30	\$4,851	\$7,372
Total	6	\$15,159,100	3,048.50	\$4,973	\$7,242
Without 2000+ acre site	5	\$7,919,800	994.50	\$7,964	\$7,986
Appraiser's Opinion				\$6,000	
Beach Parks:					
2003	6	\$14,274,100	4.29	\$3,327,296	\$4,069,977
2004	1	\$3,520,000	7.36	\$478,261	\$478,261
Total	7	\$17,794,100	11.65	\$1,527,391	\$3,556,875
Without Extremes	5	\$12,253,300	4.04	\$3,032,995	\$3,267,333
Appraiser's Opinion				\$2,613,600	

* sales prices for 2002 and 2003 sales adjusted to December 2004 dollars based on 12% annual increase in land costs in Lee County
Source: W. Michael Maxwell, Maxwell & Hendry Valuation Services, Inc, *Lee County Park and Recreation Impact Fee Study (Land Component)*, December 9, 2004 study, January 27, 2005 report.

The total replacement cost of existing community park facilities, including both land and improvements, is about \$125 million, as summarized in Table 8. Land costs were based on recent sales of comparable sites, as described above. The cost of buildings was based on insured values. The cost of other improvements was based on current unit costs. No land costs were included for parks located on land owned by the Lee County School District.

**Table 8
COMMUNITY PARK IMPROVEMENT SUMMARY**

Improvement Type	Number	Unit Cost	Total Cost
County-Owned Land (ac.)	613	\$65,000	\$39,845,000
Buildings (value)	n/a	n/a	\$21,423,210
Parking (acres)	27	\$150,000	\$4,102,500
Baseball	46	\$450,000	\$20,700,000
Football	11	\$300,000	\$3,300,000
Soccer	40	\$300,000	\$12,000,000
Small Courts	39	\$12,000	\$468,000
Amphitheater	2	\$75,000	\$150,000
Picnic Area	39	\$5,000	\$195,000
Bleachers (4 tier)	123	\$8,000	\$984,000
Boardwalks (sq. ft.)	1,050	\$50	\$52,500
Boat Ramp	1	\$600,000	\$600,000
Handball	10	\$20,000	\$200,000
Kiosk	3	\$6,000	\$18,000
Trails (mi)	72	\$70,000	\$5,040,000
Playground	28	\$50,000	\$1,400,000
Tennis Court	72	\$100,000	\$7,200,000
Seawall (linear feet)	80	\$140	\$11,200
Pool	8	\$800,000	\$6,400,000
Volleyball	7	\$10,000	\$70,000
Basketball	13	\$100,000	\$1,300,000
Total			\$125,459,410

Source: Numbers from Tables 19 and 20; land cost per acre from Table 7; other unit costs from Lee County Parks and Recreation Department, August 18, 2004 and September 17, 2004.

The total replacement cost of existing regional park facilities, including both land and improvements, is about \$212 million, as summarized in Table 9. The regional facilities include the Red Sox stadium, which is now owned by Lee County, although the City of Fort Myers retains the debt. Building costs were based on insured values. The costs of other improvements were based on current unit costs. Land costs were based strictly on County-owned property.

**Table 9
REGIONAL PARK IMPROVEMENT SUMMARY**

Improvement Type	Number	Unit Cost	Total Cost
Active Regional Parks (ac.)	328.70	\$65,000	\$21,365,500
Resource-Based Parks (ac.)	1,400.00	\$6,000	\$8,400,000
Beach Park/Boat Ramps (ac.)	22.24	\$2,613,600	\$58,126,464
Buildings (value)	n/a	n/a	\$60,733,899
Parking (acres)	34	\$150,000	\$5,081,250
Baseball	19	\$450,000	\$8,550,000
Soccer	2	\$300,000	\$600,000
Small Court	15	\$15,000	\$225,000
Amphitheater	7	\$75,000	\$525,000
Picnic	28	\$5,000	\$140,000
Bleachers (4 tier)	23	\$8,000	\$184,000
Boardwalks (sq. ft.)	145,230	\$50	\$7,261,500
Boat Ramp	10	\$600,000	\$6,000,000
Campsites	18	\$4,000	\$72,000
Kiosk	25	\$6,000	\$150,000
Signs	75	\$3,000	\$225,000
Trails (miles)	480	\$70,000	\$33,600,000
Playground	8	\$50,000	\$400,000
Seawall (linear feet)	480	\$140	\$67,200
Volleyball	6	\$10,000	\$60,000
Total			\$211,766,813

Source: Numbers from Tables 21 and 22; average land cost per acre from Table 7; other unit costs from Lee County Parks and Recreation Department, August 18, 2004 and September 17, 2004.

Dividing the total replacement cost of existing park land and capital improvements by the number of existing park service units (or EDUs) yields the cost per EDU to maintain the existing level of service. The cost to maintain the current level of service for community parks in unincorporated areas of the county is \$784 per EDU, as summarized in Table 10. The cost per service unit to maintain the current county-wide level of service for regional parks is \$775 per EDU.

**Table 10
PARK COST SUMMARY**

	Community Parks	Regional Parks
Park Replacement Cost	\$125,459,410	\$211,766,813
Total Existing Equivalent Dwelling Units (EDUs)	160,062	273,320
Cost per EDU	\$783.82	\$774.79

Source: Park replacement costs from Tables 8 and 9; total EDUs from Table 6.

REVENUE CREDITS

To avoid double-charging, new development should not be required to pay for new park facilities required to serve it through impact fees, while also having to pay for existing park facilities through property tax or other payments used to retire outstanding debt. In addition, new development should not have to pay for that share of new park facilities that will be funded through state or federal grants or other outside funding sources.

Lee County taxpayers are still repaying two bond issues that were wholly or partially used to fund community or regional park improvements.¹³ All of these remaining bond issues will be repaid over the next nine years. The net present value of future debt service payments per equivalent dwelling unit is presented in Table 11.

Table 11
PARK DEBT SERVICE CREDIT

Year	Community Parks			Regional Parks		
	Debt Service	EDUs	Credit/EDU	Debt Service	EDUs	Credit/EDU
2005	\$263,205	273,320	\$0.96	\$583,371	273,320	\$2.13
2006	\$358,752	278,896	\$1.29	\$1,014,534	278,896	\$3.64
2007	\$359,293	284,585	\$1.26	\$1,016,064	284,585	\$3.57
2008	\$359,572	290,391	\$1.24	\$1,016,853	290,391	\$3.50
2009	\$359,339	296,315	\$1.21	\$1,016,196	296,315	\$3.43
2010	\$385,679	302,360	\$1.28	\$1,090,684	302,360	\$3.61
2011	\$411,131	308,528	\$1.33	\$1,040,618	308,528	\$3.37
2012	\$120,519	314,822	\$0.38	\$226,691	314,822	\$0.72
Total	\$2,617,490		\$8.95	\$7,005,011		\$23.97
Net Present Value			\$7.46			\$19.98

Source: Debt service attributable to community and regional parks derived from *Lee County Debt Manual, FY 1999 & FY 2002*; county-wide EDUs based on year 2005 EDUs from Table 6 and annual growth rate of 2.04% based on projected 2000-2010 county-wide population growth from Southwest Florida Regional Planning Council, *Volume One of the Strategic Regional Policy Plan*, March 2002; net present value based on 20 years at 4.45% discount rate; discount rate based on average yield on 20-year AAA municipal bonds reported by *fmsbonds.com* on January 7, 2005.

In addition to the County-wide debt service credits for community and regional parks, there should also be a credit for the City of Fort Myers' outstanding debt for the Red Sox Stadium. Approximately \$2 million of regional park impact fees were used to help pay for the stadium. The City issued revenue bonds to pay for most of the remaining land and improvement costs.¹⁴ The bonds are being repaid with a combination of five revenue sources, which include excess utility taxes, franchise fees, occupation

¹³ First, a variety of community and regional park improvements, totaling \$1.6 and \$3.1 million, respectively, were funded with the \$30.5 million Series 1989C Capital Refunding Revenue Bonds, which were subsequently refunded with Series 1993 B Capital Refunding Revenue Bonds. Second, a number of community and regional park improvements, totaling \$2.0 and \$5.8 million, respectively, were funded with the \$29 million Series 1989 B Capital Refunding Revenue Bonds, which were subsequently refunded with Series 1997 A Capital Refunding Revenue Bonds.

¹⁴ The stadium was originally paid for with two City bond issues. The 1992-B taxable issue, which built the stadium, and the 1992-A, which reimbursed the City and then was turned around and used to buy the land. The 1992-A issue was advance refunded as part of the 1997-A issue. The 1992-B issue had a cash defeasance and was partially refunded by a portion of the 1999 Gulf Breeze loan.

taxes, 1/2 cent sales tax revenues and guaranteed entitlement revenues. The outstanding debt on the stadium is \$18.5 million. This amounts to \$786 for every park service unit in Fort Myers, as shown in Table 12. This debt per EDU is greater than the county-wide regional park cost of \$775 per EDU. Consequently, new residential development in Fort Myers does not pay a regional park impact fee.

Table 12
FORT MYERS REGIONAL PARK FEE CREDIT

Land Use	Unit of Measure	Existing Units	EDUs/Unit	Total EDUs
Single-Family Detached*	Dwelling	9,389	1.00	9,389
Multi-Family	Dwelling	15,170	0.75	11,378
Mobile Home/RV Park	Dwelling	906	0.73	661
Hotel/Motel	Room	4,696	0.46	2,160
Total Fort Myers Park EDUs				23,588
Outstanding Debt for Red Sox Stadium				\$18,531,374
Regional Park Debt Credit per EDU				\$785.63

* includes mobile homes located outside of a mobile home park

Source: Existing units from 2000 U.S. Census and building permit records; existing hotel/motel rooms from Lee County Visitor and Convention Bureau; EDUs/unit from Table 4; outstanding debt from City of Fort Myers Finance Department, September 24, 2004.

Lee County has a history of receiving State grants for and spending some Community Development Block Grant (CDBG) funding on community park improvements. Over the last ten years, the County has spent an average of \$187,575 annually of such outside funding on community park improvements, as summarized in Table 13.

Table 13
COMMUNITY PARK GRANT FUNDING, FY 1995-2005

Grant	Year	Description	Original Amount	Inflation Factor	Current Dollars
CDBG	FY 1994/95	Charleston Park	\$14,941	1.279	\$19,110
CDBG	FY 1995/96	Charleston Park	\$31,228	1.243	\$38,816
None	FY 1996-97	—	\$0	1.208	\$0
CDBG	FY 1997-98	Harlem Hts/Kelly Road	\$170,954	1.181	\$201,897
CDBG	FY 1998-99	Harlem Hts/Kelly Road	\$79,302	1.163	\$92,228
None	FY 1999-00	—	\$0	1.137	\$0
LWCF	FY 2000-01	Schandler Hall Park	\$100,000	1.100	\$110,000
FRDAP	FY 2000-01	Buckingham Park	\$132,000	1.100	\$145,200
FRDAP	FY 2001-02	Schandler Hall Park	\$200,000	1.070	\$214,000
FRDAP	FY 2002-03	Veteran's Park	\$200,000	1.048	\$209,600
FRDAP	FY 2003-04	Schandler Hall Park	\$200,000	1.030	\$206,000
CDBG	FY 2004-05	Charleston Park	\$388,644	1.000	\$388,644
CDBG	FY 2004-05	Harlem Hts/Kelly Road	\$250,256	1.000	\$250,256
Total Grant Funding 1994-2004			\$1,767,325		\$1,875,751
Average Annual Grant Funding					\$187,575

Source: Lee County Human Services Dept., April 13, 2001; Lee County Parks and Recreation Department, September 16, 2004.

Lee County has also received some grant funding in recent years for regional park facilities. Additional funds from the Florida Communities Trust have been used for open space preservation and have not been used for regional parks. Over the past ten years, the County has received an average of about \$59,000 annually in grant funding for regional park improvements, as summarized in Table 14.

**Table 14
REGIONAL PARK GRANT FUNDING, FY 1995-2005**

Grant	Year	Description	Original Amount	Inflation Factor	Current Dollars
None	FY 1994/95	—	\$0	1.279	\$0
None	FY 1995/96	—	\$0	1.243	\$0
Pollution Recovery	FY 1996-97	Lakes Park	\$47,474	1.208	\$57,349
FRDAP	FY 1996-97	Matanzas	\$100,000	1.208	\$120,800
SBA Tree Grant	FY 1996-97	Matanzas	\$27,868	1.208	\$33,665
DEP	FY 1997-98	Caloosahatchee	\$75,000	1.181	\$88,575
Flowway	FY 1998-99	Lakes Park	\$100,000	1.163	\$116,300
FRDAP	FY 1998-99	Hickey Creek Mit. Park	\$100,000	1.163	\$116,300
None	FY 1999-00	—	\$0	1.137	\$0
None	FY 2000-01	—	\$0	1.100	\$0
WHIP	FY 2002-03	Caloosahatchee Park	\$19,991	1.048	\$20,951
WHIP	FY 2003-04	Caloosahatchee Park	\$19,998	1.030	\$20,598
WHIP	FY 2004-05	Caloosahatchee Park	\$19,275	1.000	\$19,275
Total Grant Funding 1994-2004			\$509,606		\$593,812
Average Annual Grant Funding 1999-2004			\$50,961		\$59,381

Source: Lee County Human Services Department, April 13, 2001; Lee County Parks and Recreation Department, September 16, 2004.

Lee County's park impact fee studies have traditionally given credit for outside funding based on historical patterns of funding. A case could be made that credit does not need to be given for CDBG funds, because the County has discretion over how to spend CDBG money. The same logic does not apply to State park grants, which are earmarked for specific park capital improvements. It would be unreasonable to assume that the county will not get any State grants in the future. The recent past is one of the only available guides to funding patterns of the future.

Assuming that the County continues to receive State park grants and spend CDBG funds on community and regional parks proportional to the amount of development it serves, over the typical 20-year bond financing period for capital facilities the County will receive the equivalent of a current lump-sum contribution of \$15.28 per service unit for community parks and \$2.87 per service unit for regional parks, as shown in Table 15.

**Table 15
PARK GRANT FUNDING CREDITS**

	Community Parks	Regional Parks
Annual Park Capital Funding	\$187,575	\$59,381
Total Existing Park Equivalent Dwelling Units (EDUs)	160,062	273,320
Annual Park Funding per EDU	\$1.17	\$0.22
Net Present Value Factor for Future Funding	13.06	13.06
Park Funding Credit per EDU	\$15.28	\$2.87

Source: Annual grant funding from Tables 13 and 14; existing park EDUs from Table 6; net present value factor based on 20 years at 4.43% discount rate; discount rate based on yields on 20-year AAA municipal bonds reported by fmsbonds.com on January 7, 2005.

The Conservation 2020 mill levy is a county-wide property tax that generates about \$10 million annually in revenue dedicated for acquiring land for preservation. However, the conservation land purchased with these funds generally does not have public access and thus does not qualify as regional park land. Since none of the land acquired with Conservation 2020 funding has been included in the existing level of service on which the regional park impact fees are calculated, no impact fee credit is warranted.

Another park funding source is Tourist Development Council (TDC) funding. The County uses these funds exclusively for the operation and maintenance of the County's beach parks. Since none of the money is spent on capital improvements, no impact fee credit is warranted.

Reducing the costs per service unit by the park debt service credits and the anticipated grant funding per service unit leaves a community park net cost of \$761 per EDU, and a regional park net cost of \$752 per EDU for new development in the unincorporated area and participating municipalities other than Fort Myers, as shown in Table 16.

**Table 16
PARK NET COST CALCULATIONS**

	Community Parks	Regional Parks	
	Unincorporated Only	Fort Myers	Rest of Co.
Cost per EDU	\$783.82	\$774.79	\$774.79
Debt Service Credit per EDU	\$7.46	\$19.98	\$19.98
Red Sox Stadium Credit per EDU	—	\$785.63	—
Grant Funding Credit per EDU	\$15.28	\$2.87	\$2.87
Net Cost per EDU	\$761.08	\$0.00	\$751.94

Source: Costs per EDU from Table 10; debt service credits per EDU from Table 11; Fort Myers debt credit includes credit from Table 12; grant funding credits per EDU from Table 15.

FEE SCHEDULE

The approach used to calculate park impact fees is to multiply the number of equivalent dwelling units (EDUs) per unit associated with various housing types by the net cost per EDU of maintaining the existing level of service. These park impact fee calculations are presented in Table 17.

**Table 17
PROPOSED PARK IMPACT FEES**

Housing Type	Unit	EDUs/ Unit	Community Park Net Cost/Unit	Regional Park Net Cost/Unit
Single-Family Detached	Dwelling	1.00	\$761	\$752
Multi-Family/Timeshare	Dwelling	0.75	\$571	\$564
Mobile Home/RV Park	Pad Site	0.73	\$556	\$549
Hotel/Motel	Room	0.46	\$350	\$346

Source: EDUs per unit from Tables 4; net costs per unit based on EDUs/unit and net costs per EDU from Table 16.

The proposed fees by housing type calculated above are compared with the County's current park fees in Table 18. The proposed increase over current fees is due to several factors, which include increasing land costs, more accurate estimates of the cost of acquiring park land and better estimates of improvement costs.

**Table 18
COMPARISON OF CURRENT AND PROPOSED PARK FEES**

Housing Type	-----Current Park Fees-----			-----Proposed Park Fees-----			% Change
	Community	Regional	Total	Community	Regional	Total	
Single-Family Detached	\$655	\$461	\$1,116	\$761	\$752	\$1,513	36%
Multi-Family/Timeshare	\$485	\$341	\$826	\$571	\$564	\$1,135	37%
Mobile Home/RV Park	\$458	\$322	\$780	\$556	\$549	\$1,105	42%
Hotel/Motel	\$327	\$230	\$557	\$350	\$346	\$696	25%

Source: Proposed fees from Table 17; current fees from Lee County Land Development Code, Ch. 2, Art. VI: Impact Fees.

APPENDIX A: COMMUNITY PARKS

Table 19
COMMUNITY PARK INVENTORY, PART 1

	Acres	Parking (ac)	Baseball	Football	Soccer	Small Courts	Amphitheater	Picnic	Bleachers (4 tier)	Boardwalks (sf)	Handball
Alva Park	10	0.69	2	0	0	1	0	1	4	0	0
Bay Oaks Center	6	1.03	2	0	0	1	0	2	4	0	0
Bayshore Elem School	n/a	0.00	0	0	7	0	0	1	4	0	0
Boca Grande Center	2	0.02	0	0	0	0	0	1	0	0	0
Boca Grande Park	8	0.36	0	0	0	0	1	1	0	0	0
Boca Grande Wheeler St.	40	0.00	1	1	0	0	0	0	2	0	0
Buckingham Center	1	0.05	0	0	0	1	0	1	0	0	0
Buckingham Park	51	2.37	4	2	1	0	0	2	16	0	0
Cape Coral High School Pool	n/a	0.00	0	0	0	0	0	0	0	0	0
Charleston Park	4	0.70	1	0	0	1	0	1	0	0	0
Cypress Lake Pool	1	0.00	0	0	0	0	0	0	0	0	0
Estero Park	65	0.00	0	0	0	0	0	0	0	0	0
Estero High School	n/a	0.00	3	2	2	0	0	0	18	0	6
Gateway Park	16	0.45	0	0	5	0	0	1	0	0	0
Hancock Park (to be given to Cape Coral)											
J. Colin English Elem School	n/a	0.00	0	0	0	0	0	0	0	0	0
Jerry Brooks Park	10	0.92	2	1	0	0	0	2	11	0	0
Judd Park	14	0.32	1	0	0	1	0	1	0	150	0
Judd Park Boat Ramp	n/a	0.00	0	0	0	0	0	0	0	0	0
Kelly Road Park	42	2.94	0	0	7	1	0	0	2	0	0
Lee County Sports Complex (part)	30	0.00	4	0	1	0	0	0	0	0	0
Lehigh Acres Community Park	20	0.00	4	1	0	0	0	2	13	0	0
Lehigh Acres Middle School	n/a	0.00	0	0	4	0	0	0	0	0	4
Matlacha Park	9	0.56	0	0	0	0	0	9	0	0	0
North Fort Myers Center	1	0.00	0	0	0	0	0	0	0	0	0
North Fort Myers Park	51	2.46	4	2	1	26	0	2	8	0	0
North Fort Myers Pool	3	0.00	0	0	0	0	0	0	0	0	0
North Community Center Pool	n/a	0.00	0	0	0	0	0	0	0	0	0
Olga Center Park	2	0.25	0	0	1	0	0	1	0	0	0
Phillips Park and Pool	8	0.39	2	0	0	0	0	1	3	0	0
Pine Island Elem School	n/a	0.00	1	0	0	0	0	0	2	0	0
Riverdale High School	n/a	0.00	3	1	1	0	0	0	9	0	0
Royal Palm Park	n/a	0.11	0	0	0	0	0	1	0	900	0
Rutenberg Park	40	2.86	4	1	0	1	0	2	12	0	0
San Carlos Community Ctr & Pool	4	0.33	0	0	0	0	0	0	0	0	0
San Carlos Elem School	n/a	0.00	1	0	0	0	0	0	0	0	0

	Acres	Parking (ac)	Baseball	Football	Soccer	Small Courts	Amphitheater	Picnic	Bleachers (4 tier)	Boardwalks (sf)	Handball
Sanibel Elem School	n/a	0.00	0	0	0	0	0	0	0	0	0
Schandler Hall Park	7	0.51	1	0	1	1	0	2	0	0	0
South Fort Myers Park	44	0.00	0	0	0	0	0	0	0	0	0
Spring Creek Elem School	n/a	0.00	0	0	1	0	0	0	0	0	0
Suncoast Elem School	n/a	0.00	0	0	0	0	0	0	0	0	0
Tanglewood Elem School	n/a	0.00	0	0	2	0	0	0	0	0	0
Three Oaks Community Park	38	2.49	4	0	4	4	0	2	11	0	0
Tice Elem School	n/a	0.00	0	0	1	0	0	0	0	0	0
Veterans Park	81	3.12	2	0	1	1	1	3	4	0	0
Veterans Park Multi-Gen Center	5	0.00	0	0	0	0	0	0	0	0	0
Villas Elem School	n/a	0.00	0	0	0	0	0	0	0	0	0
Total:	613	27.35	46	11	40	39	2	39	123	1,050	10

Source: Lee County Parks and Recreation Department, August 6 and August 23, 2004.

**Table 20
COMMUNITY PARK INVENTORY, PART 2**

Community Parks	Boat Ramp	Kiosk	Playground	Tennis Court	Seawall (l.f.)	Pool	Volleyball	Basketball	Insured Buildings
Alva Park	0	0	1	2	0	0	0	0	\$628,400
Bay Oaks Center	0	0	1	6	0	1	0	0	\$2,012,600
Bayshore Elem School	0	0	0	2	0	0	0	0	\$447,500
Boca Grande Center	0	0	0	0	0	0	0	0	\$2,231,000
Boca Grande Park	0	0	1	2	0	0	1	1	
Boca Grande Wheeler St.	0	0	0	0	0	0	0	0	
Buckingham Center	0	0	2	0	0	0	0	0	\$200,000
Buckingham Park	0	0	2	0	0	0	0	0	\$1,377,900
Cape Coral High School Pool	0	0	0	0	0	1	0	0	
Charleston Park	0	0	1	0	0	0	0	1	\$232,600
Cypress Lake Pool	0	0	0	0	0	1	0	0	
Estero Park	0	0	0	0	0	0	0	0	\$760,400
Estero High School	0	0	0	8	0	0	0	4	
Gateway Park	0	0	1	0	0	0	0	0	
Hancock Park (to be given to Cape Coral)									
J. Colin English Elem School	0	0	0	2	0	0	0	2	
Jerry Brooks Park	0	0	0	4	0	0	0	0	\$619,600
Judd Park	0	1	1	4	0	0	0	0	\$125,000
Judd Park Boat Ramp	1	0	0	0	0	0	0	0	
Kelly Road Park	0	0	2	0	0	0	0	0	\$1,005,800
Lehigh Acres Community Park	0	0	1	2	0	1	0	0	\$627,900
Lehigh Acres Middle School	0	0	0	3	0	0	0	0	\$248,500
Lee County Sports Complex (part)	0	0	0	0	0	0	0	0	
Matlacha Park	0	2	1	0	80	0	1	1	\$560,900
N. Fort Myers Community Center	0	0	0	0	0	0	0	0	\$168,200
North Fort Myers Park	0	0	1	2	0	0	0	0	
North Fort Myers Pool	0	0	0	0	0	1	0	0	
North Community Center Pool	0	0	0	0	0	1	0	0	
Olga Center Park	0	0	1	0	0	0	0	1	\$458,300
Phillips Park and Pool	0	0	1	3	0	1	1	0	\$232,900
Pine Island Elem School	0	0	1	2	0	0	0	1	
Riverdale High School	0	0	0	6	0	1	0	0	
Royal Palm Park	0	0	0	0	0	0	0	0	
Rutenberg Park	0	0	2	8	0	0	0	0	\$1,034,100
San Carlos Community Ctr & Pool	0	0	1	0	0	0	0	0	\$494,400
San Carlos Elem School	0	0	0	0	0	0	0	0	\$287,100
Sanibel Elem School	0	0	1	4	0	0	0	0	
Schandler Hall Park	0	0	2	2	0	0	1	1	\$452,100
South Fort Myers Park	0	0	0	0	0	0	0	0	
Spring Creek Elem School	0	0	1	0	0	0	0	0	

Community Parks	Boat Ramp	Kiosk	Playground	Tennis Court	Seawall (l.f.)	Pool	Volleyball	Basketball	Insured Buildings
Suncoast Elem School	0	0	0	0	0	0	0	0	
Tanglewood Elem School	0	0	0	0	0	0	0	0	
Three Oaks Park	0	0	2	8	0	0	3	0	\$1,690,700
Tice Elem School	0	0	0	2	0	0	0	0	
Veterans Park	0	0	1	0	0	0	0	1	\$637,100
Veterans Park Multi-Gen Center	0	0	0	0	0	0	0	0	\$4,890,210
Total	1	3	28	72	80	8	7	13	\$21,423,210

Source: Lee County Parks and Recreation Department, August 6 and August 23, 2004; value of insured buildings from "Lee County Board of County Commissioners Insured Property Schedule," 2004, except Veterans Park Multi-Generational Center, which is actual cost per Parks and Recreation Department, March 7, 2005 memorandum.

APPENDIX B: REGIONAL PARKS

Table 21
REGIONAL PARK INVENTORY, PART 1

Regional Parks	Acres	Parking	Baseball	Soccer	Small Courts	Amphitheater	Picnic	Bleachers	Boardwalks
Alva Boat Ramp	1.4	0.26	0	0	0	0	0	0	0
Bonita Beach Park	4.0	1.00	0	0	0	0	0	0	200
Bonita Beach Access 2-7	3.3	1.65	0	0	0	0	0	0	0
Davis Blvd Boat Ramp	n/a	0.15	0	0	0	0	0	0	0
Ft Myers Beach Access 37-41	1.0	0.00	0	0	0	0	0	0	0
Imperial River Boat Ramp	n/a	1.20	0	0	0	0	1	0	2,400
Little Hickory Island Park	2.0	0.50	0	0	0	0	0	0	50
Lynn Hall Memorial Park	5.0	0.56	0	0	1	0	2	0	6,400
Matlacha Park Pier	n/a	0.00	0	0	0	0	0	0	1,360
Matlacha Boat Ramp	n/a	0.00	0	0	0	0	0	0	0
North Shore Park Pier	n/a	0.12	0	0	0	0	2	0	1040
Orange River Kayak Launch	2.4	0.00	0	0	0	0	0	0	0
Punta Rassa Boat Ramp	n/a	0.69	0	0	0	0	0	0	2,000
Turner Beach Park	3.0	0.23	0	0	0	0	0	0	0
Tropical Point Park	0.2	0.00	0	0	0	0	0	0	0
Subtotal, Beach Parks	22.2	6.36	0	0	1	0	5	0	13,450
Bowmans Beach Park	196.0	0.28	0	0	0	0	1	0	0
Hickey Creek Mitigation Park*	720.0	0.50	0	0	0	1	1	0	1,200
Lakes Park	287.0	4.83	0	1	3	2	6	4	12,680
Mantanzas Pass Park	47.0	0.03	0	0	0	1	1	0	60,000
Nalle Grade Park	80.0	0.00	0	0	10	0	1	0	0
Six Mile Cypress Ctr	70.0	0.96	0	0	0	1	2	0	50,000
Subtotal, Resource-Based Parks	1,400.0	6.59	0	1	13	5	12	4	123,880
Bowditch Point Park	17.0	0.44	0	0	0	1	0	0	5,000
Caloosahatchee Park (leased)	n/a	0.74	0	0	0	0	3	0	500
City of Palms Boston Ball Park	13.0	0.00	2	0	0	0	0	0	0
Idalia Paddling Center	13.0	0.00	0	0	0	0	0	0	0
Imperial River Boat Ramp	n/a	1.20	0	0	0	0	1	0	2,400
Lee County Civic Center	97.0	4.50	0	0	0	0	1	0	0
Lee County Sports Complex (part)	50.0	10.61	8	0	0	0	2	0	0
Manatee Park (leased)	n/a	0.48	0	0	0	1	2	0	0
Minor League Boston 5-Plex	57.7	1.09	5	0	0	0	1	6	0
Red Sox Stadium	13.0	0.00	0	0	0	0	0	0	0
Terry Park	36.0	1.87	4	1	1	0	1	13	0
Ten Mile Linear Park	32.0	0.00	0	0	0	0	0	0	0
Subtotal, Active Regional Parks	328.7	20.92	19	1	1	2	11	19	7,900
Total	1,750.9	33.88	19	2	15	7	28	23	145,230

* not including additional 300 acres purchased with 2020 Conservation funds
Source: Lee County Parks and Recreation Department, August 6 and August 23, 2004.

**Table 22
REGIONAL PARK INVENTORY, PART 2**

Regional Parks	Boat Ramp	Campsites	Kiosk	Signs	Playground	Scoreboard	Seawall	Volleyball	Insured Buildings
Alva Boat Ramp	1	0	1	1	0	0	0	0	
Bonita Beach Park	0	0	0	0	1	0	0	2	\$215,400
Bonita Beach Access 2-7	0	0	0	0	0	0	0	0	
Davis Blvd Boat Ramp	1	0	0	0	0	0	100	0	
Ft Myers Beach Access 37-41	0	0	0	0	0	0	0	0	
Imperial River Boat Ramp	2	0	1	0	0	0	0	0	
Little Hickory Island Park	0	0	0	0	0	0	0	0	
Lynn Hall Memorial Park	0	0	3	2	1	0	0	1	\$203,700
Matlacha Park Pier	0	0	0	0	0	0	0	0	
Matlacha Boat Ramp	1	0	0	0	0	0	0	0	
North Shore Park Pier	0	0	0	0	0	0	0	0	
Orange River Kayak Launch	0	0	0	0	0	0	0	0	
Punta Rassa Boat Ramp	2	0	1	0	0	0	300	0	
Turner Beach Park	0	0	1	1	0	0	80	0	
Tropical Point Park	0	0	0	0	0	0	0	0	
Subtotal, Beach Parks	7.0	0.00	7	4	2	0	480	3	419,100
Bowmans Beach Park	0	0	1	2	0	0	0	0	
Hickey Creek Mitigation Park	0	0	2	25	0	0	0	0	\$104,900
Lakes Park	1	8	1	3	3	0	0	2	\$998,900
Mantanzas Pass Park	0	0	1	4	0	0	0	0	
Nalle Grade Park	0	0	0	0	0	0	0	1	\$65,000
Six Mile Cypress Slough Ctr	0	0	3	6	0	0	0	0	\$803,400
Subtotal, Resource-Based Parks	1.0	8.00	8	40	3	0	0	3	1,972,200
Bowditch Point Park	0	0	3	10	1	0	0	0	\$542,000
Caloosahatchee Park (leased)	0	10	1	5	0	0	0	0	\$155,900
City of Palms Boston Ball Park	0	0	2	4	0	2	0	0	
Idalia Paddling Center	0	0	0	4	0	0	0	0	
Imperial River Boat Ramp	2	0	1	0	0	0	0	0	
Lee County Civic Center	0	0	1	4	0	0	0	0	\$12,905,700
Lee County Sports Complex*	0	0	2	2	0	4	0	0	\$21,695,525
Manatee Park (leased)	0	0	0	0	1	0	y	0	\$132,400
Minor League Boston 5-Plex	0	0	0	2	0	0	0	0	
Red Sox Stadium	0	0	0	0	0	0	0	0	\$18,531,374
Terry Park	0	0	0	0	1	1	0	0	\$4,379,700
Ten Mile Linear Park	0	0	0	0	0	0	0	0	
Subtotal, Active Regional Parks	2.0	10.00	10	31	3	7	0	0	58,342,599
Total	10.0	18.00	25	75	8	7	480	6	60,733,899

* includes Minnesota Twins Hammond Stadium

Source: Lee County Parks and Recreation Department, August 6 and August 23, 2004; value of insured buildings from "Lee County Board of County Commissioners Insured Property Schedule," 2004, with exception of Red Sox Stadium, which is based on outstanding debt from Table 12.

LEE COUNTY ORDINANCE NO.

AN ORDINANCE AMENDING THE LEE COUNTY LAND DEVELOPMENT CODE (LDC) TO AMEND CHAPTER 2 (ADMINISTRATION), ARTICLE VI (IMPACT FEES), DIVISION 3 (REGIONAL PARKS IMPACT FEE); AMENDING COMPUTATION OF AMOUNT (§2-306); AMENDING DIVISION 4 (COMMUNITY PARKS IMPACT FEE); COMPUTATION OF AMOUNT (§2-346); BENEFIT DISTRICTS ESTABLISHED (§2-348); AND

AMENDING APPENDIX L - COMMUNITY PARK IMPACT FEE BENEFIT DISTRICT DESCRIPTIONS;

PROVIDING FOR CONFLICTS OF LAW, SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS AND AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Lee County, Florida has adopted a comprehensive Land Development Code (LDC); and

WHEREAS, the Board of County Commissioners has the authority to adopt this revision pursuant to Article VIII of the Constitution of the State, F.S. Ch. 125 and F.S. §§ 163.3201, 163.3202 and 380.06(16); and

WHEREAS, Goal 24 of the Lee County Comprehensive Land Use Plan (Lee Plan) mandates that the county maintain clear, concise, and enforceable development regulations that fully address on-site and off-site development impacts, yet function in a streamlined manner; and

WHEREAS, pursuant to Lee Plan Goal 62, the County must plan, budget, and fund a comprehensive park system that properly meets the needs for the future of Lee County; and

WHEREAS, Lee Plan Policy 62.1.1. provides that the adopted capital improvement plan reflects the distribution of park facilities throughout the unincorporated County and that the use of community park impact fee districts provides a mechanism to distribute facilities based on population, travel patterns, and existing facilities; and

WHEREAS, pursuant to Lee Plan Policy 62.1.2., the capital improvement plan identifies how park impact fees, other earmarked capital funds, and all general funds are to be used for capital projects; and

WHEREAS, pursuant to Lee Plan Policy 62.1.3, land development will be required to bear a proportionate cost of new and expanded parks required by such development. The policy provides that part impact fees are the most equitable means of capturing these costs and that the County must impose impact fees for regional and community parks; and

WHEREAS, pursuant to Lee Plan Policy 70.1.3.5(a), the minimum acceptable level of service standard for regional parks is six (6) acres of improved regional park plan open for public use per 1,000 total seasonal population; and

WHEREAS, pursuant to Lee Plan Policy 70.1.3.5(b), the minimum acceptable level of service standard for community parks is .8 acres of developed standard community parks open for public use per 1,000 permanent population; and

WHEREAS, the Board initially adopted the Parks impact fee regulations and an impact fee schedule in 1985; and

WHEREAS, Lee Plan Policy 62.1.4 and LDC section 34-306 requires the staff to review and reanalyze the Parks Impact Fee Schedule every three years and pursue amendments to the fee schedule if supported by the reanalysis; and

WHEREAS, the Board approved a contract with Duncan Associates for the review and update of Parks Impact Fee Schedule; and

WHEREAS, the *"Park Impact Fee Update, Lee County, Florida"*, prepared by Duncan Associates, dated March 2005, forms the basis of the proposed amendments to the fee schedules for Regional and Community Parks; and

WHEREAS, the Parks Impact Fee Study prepared by Duncan Associates generated competent data allowing the use of a sophisticated methodology to calculate the impacts of development and to establish appropriate impact fees; and

WHEREAS, pursuant to Lee Plan Objective 51.1., the County must periodically examine the composition and location of population growth to determine if redistricting of community impact fee districts is warranted; and

WHEREAS, the Land Development Code Advisory Committee reviewed and approved the proposed amendments to the fee schedule for Regional and Community Parks Impact Fees on _____, and

WHEREAS, the Executive Regulatory Oversight Committee reviewed the proposed amendments to the Land Development Code on _____, and

WHEREAS, the Local Planning Agency reviewed the proposed amendments to the fee schedule on _____, and found them consistent with the Lee Plan.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA:

SECTION ONE: AMENDMENT TO LAND DEVELOPMENT CODE CHAPTER 2

Lee County Land Development Code Chapter 2, Article VI, Divisions 3 and 4 are amended to read as follows with strike through identifying deleted language and underline identifying new language:

CHAPTER 2

ARTICLE VI. IMPACT FEES

DIVISION 3. REGIONAL PARKS IMPACT FEE

Sec. 2-306. Computation of amount.

(a) The fee schedule set forth in this subsection is effective on June 1, 2005, except as otherwise stated herein. At the option of the feepayer, the amount of the regional parks impact fee may be determined by the schedule set forth in this subsection. The reference in the schedule to mobile home/RV park site refers to the number of mobile home or recreational vehicle sites permitted by the applicable final development order. Mobile homes not located within a mobile home park will be treated as a single-family residence for impact fee calculation purposes.

THE PREVIOUS FEE SCHEDULE IS HEREBY DELETED AND REPLACED WITH THE FOLLOWING:

<u>Land Use Type</u>	<u>Regional Parks Impact Fee per Unit</u>
<u>Single-family residence</u>	<u>\$752.00</u>
<u>Multiple-family building, duplex, two-family attached or townhouse</u>	<u>564.00</u>
<u>Mobile home / RV park site</u>	<u>549.00</u>
<u>Hotel /motel room</u>	<u>346.00</u>

~~Note: The fee schedule in effect prior to the adoption of this ordinance will be deleted from the LDC. As of September 15, 2001, this predecessor fee schedule will no longer be of any force or effect, except as to determining fees for building permits issued prior to September 15, 2001, or as otherwise indicated below:~~

~~———— Building permit or mobile home move-on permit or recreational vehicle park development order applications submitted on or before September 14, 2001 will be assessed regional park impact fees based upon the fee schedule applicable on August 28, 2001, if the building permit or mobile home move-on permit or recreational vehicle park development order is issued on or before two months after September 15, 2001.~~

~~———— Building permit or mobile home move-on permit or recreational vehicle park development order applications submitted on or after September 15, 2001 will be subject to the amended impact fee schedule. All permits and development orders issued after November 15, 2001 will be assessed impact fees in accordance with the amended impact fee schedule regardless of when the application was submitted to the county.~~

(b) Under this article, impact fees become due and payable at the time of building permit issuance. For purposes of this Code, a building permit is considered "issued" when the permit meets all of the following criteria:

- (1) the permit is approved by the county;
- (2) has been picked up by the owner or his agent; and,
- (3) all applicable fees have been paid.

(c) ~~[Also, NOTE: The development order process is separate and distinct from the building permit process and not relevant with respect to establishing when impact fees become due and payable, except as to RV parks.]~~

(d) The fee schedule in effect prior to June 1, 2005 will remain in effect until the new fees take effect as follows:

- (1) A building permit or mobile home move-on permit or recreational vehicle park development order application submitted on or before July 1, 2005, will be assessed an impact fee based upon the fee schedule applicable on May 31, 2005, but only if the building permit or mobile home move-on permit or recreational vehicle park development order is issued on or before October 1, 2005.
- (2) A building permit or mobile home move-on permit or recreational vehicle park development order application submitted after July 1, 2005, or any building permit or mobile home move-on permit or development order issued after October 1, 2005, will be subject to the amended impact fee schedule.
- (3) After October 1, 2005, the Director may accept payment according to the fee schedule in effect prior to June 1, 2005 only if the following conditions are met. The Director's decision is not subject to appeal under §34-145 of this code.
 - a. The application for the permit or development order must have been properly submitted and sufficient for review on or before July 1, 2005; and,
 - b. The sole grounds for accepting payment under this subsection will be that a governmental action or failure to act in a timely manner caused the issuance of the permit or development order to be delayed beyond October 1, 2005; and,
 - c. The applicant submits a written request to the Director specifying the reasons for the request; and,
 - d. The Director's decision must be in writing and it must set forth the governmental action or failure to act that caused unnecessary delay in the issuance of the permit or development order; and,
 - e. The ability and authority to accept payments under this subsection will terminate on November 30, 2005.

(be) When change of use, redevelopment or modification of an existing use requires the issuance of a building permit, mobile home move-on permit or recreational vehicle development order, the regional parks impact fee will be based upon the net increase in the impact fee for the new use as compared to the previous use. However, no impact fee refund or credit will be granted if a net decrease results.

(ef) If the regional parks impact fee has been calculated and paid based on error or misrepresentation, it will be recalculated and the difference refunded to the original fee payer or

collected by the county, whichever is applicable. If regional parks impact fees are owed, no participating municipality or county permits of any type may be issued for the building or structure in question, or for any other portion of a development of which the building or structure in question is a part, until impact fees are paid. The building official may bring any action permitted by law or equity to collect unpaid fees.

(dg) The person applying for the issuance of a building permit, mobile home move-on permit or recreational vehicle development order may opt to submit evidence to the county manager indicating that the fees set out in subsection (a) of this section are not applicable to the particular development. Based upon convincing and competent evidence, which must be prepared and submitted in accordance with the county administrative code, the county manager may adjust the fee to that appropriate for the particular development. The adjustment may include a credit for private recreational facilities provided to the development by the feepayer if the private recreational facilities serve the same purposes and functions as set forth in the Lee Plan for regional parks.

(eh) The impact fee schedule set forth in section 2-306(a) will be administratively reviewed and reanalyzed every three years. As a result of this review, county staff is authorized and directed to pursue amendments to the impact fee schedule supported by the review and reanalysis.

DIVISION 4. COMMUNITY PARKS IMPACT FEE

Sec. 2-346. Computation of amount.

(a) The fee schedule set forth in this subsection is effective on June 1, 2005, except as otherwise stated herein. At the option of the feepayer, the amount of the community parks impact fee may be determined by the schedule set forth in this subsection. The reference in the schedule to mobile home/RV park site refers to the number of mobile home or recreational vehicle sites permitted by the applicable final development order. Mobile homes not located within a mobile home park will be treated as a single-family residence for impact fee calculation purposes.

THE PREVIOUS FEE SCHEDULE IS HEREBY DELETED AND REPLACED WITH THE FOLLOWING:

<u>Land Use Type</u>	<u>Community Parks Impact Fee per Unit</u>
<u>Single-family residence</u>	<u>\$761.00</u>
<u>Multiple-family building, duplex, two-family attached or townhouse</u>	<u>571.00</u>

Mobile / RV park site	556.00
Hotel /motel room	350.00

Note: The fee schedule in effect prior to the adoption of this ordinance will be deleted from the LDC. As of September 15, 2001, this predecessor fee schedule will no longer be of any force or effect, except as to determining fees for building permits issued prior to September 15, 2001, or as otherwise indicated below:

~~Building permit or mobile home move-on permit or recreational vehicle park development order applications submitted on or before September 14, 2001 will be assessed community park impact fees based upon the fee schedule applicable on August 28, 2001, if the building permit or mobile home move-on permit or recreational vehicle park development order is issued on or before two months after September 15, 2001.~~

~~Building permit or mobile home move-on permit or recreational vehicle park development order applications submitted on or after September 15, 2001 will be subject to the amended impact fee schedule. All permits and development orders issued after November 15, 2001 will be assessed impact fees in accordance with the amended impact fee schedule regardless of when the application was submitted to the county.~~

(b) Under this article, impact fees become due and payable at the time of building permit issuance. For purposes of this code, a building permit is considered "issued" when the permit meets all of the following criteria:

- (1) the permit is approved by the county;
- (2) has been picked up by the owner or his agent; and,
- (3) all applicable fees have been paid.

(c) ~~{Also, NOTE: The development order process is separate and distinct from the building permit process and not relevant with respect to establishing when impact fees become due and payable, except as to RV parks.}~~

(d) The fee schedule in effect prior to June 1, 2005 will remain in effect until the new fees take effect as follows:

- (1) A building permit or mobile home move-on permit or recreational vehicle park development order application submitted on or before July 1, 2005, will be assessed an impact fee based upon the fee schedule applicable on May 31, 2005, but only if the building permit or mobile home move-on permit or recreational vehicle park development order is issued on or before October 1, 2005.
- (2) A building permit or mobile home move-on permit or recreational vehicle park development order application submitted after July 1, 2005, or any building

permit or mobile home move-on permit or development order issued after October 1, 2005, will be subject to the amended impact fee schedule.

(3) After October 1, 2005, the Director may accept payment according to the fee schedule in effect prior to June 1, 2005 only if the following conditions are met. The Director's decision is not subject to appeal under §34-145 of this code.

- a. The application for the permit or development order must have been properly submitted and sufficient for review on or before July 1, 2005; and,
- b. The sole grounds for accepting payment under this subsection will be that a governmental action or failure to act in a timely manner caused the issuance of the permit or development order to be delayed beyond October 1, 2005; and,
- c. The applicant submits a written request to the Director specifying the reasons for the request; and,
- d. The Director's decision must be in writing and it must set forth the governmental action or failure to act that caused unnecessary delay in the issuance of the permit or development order; and,
- e. The ability and authority to accept payments under this subsection will terminate on November 30, 2005.

(be) When change of use, redevelopment or modification of an existing use requires the issuance of a building permit, mobile home move-on permit or recreational vehicle development order, the community parks impact fee will be based upon the net increase in the impact fee for the new use as compared to the previous use. However, no impact fee refund or credit will be granted if a net decrease results.

(ef) If the community parks impact fee has been calculated and paid based on error or misrepresentation, it will be recalculated and the difference refunded to the original feepayer or collected by the county, whichever is applicable. If community parks impact fees are owed, no participating municipality or county permits of any type may be issued for the building or structure in question, or for any other portion of a development of which the building or structure in question is a part, until impact fees are paid. The building official may bring any action permitted by law or equity to collect unpaid fees.

(eg) The person applying for the issuance of a building permit, mobile home move-on permit or recreational vehicle development order may opt to submit evidence to the county manager indicating that the fees set out in subsection (a) of this section are not applicable to the particular development. Based upon convincing and competent evidence, which must be prepared and submitted in accordance with the county administrative code, the county manager may adjust the fee to that appropriate for the particular development. The adjustment may include a credit for private recreational facilities provided to the development by the feepayer if the private recreational facilities serve the same purposes and functions as set forth in the Lee Plan for community parks.

(eh) The impact fee schedule set forth in section 2-346(a) will be administratively reviewed and reanalyzed every three years. As a result of this review, county staff is authorized and directed to pursue amendments to the impact fee schedule supported by the review and reanalysis.

Sec. 2-348. Benefit districts established.

There are hereby established ~~eight~~ nine community parks impact fee benefit districts as shown in Appendix L. Subdistricts may be created by interlocal agreement.

SECTION TWO: AMENDMENT TO LAND DEVELOPMENT CODE APPENDIX

Lee County Land Development Code Appendix L is amended to read as follows with strike through identifying deleted language and underline identifying additional language:

APPENDIX L COMMUNITY PARK IMPACT FEE DISTRICT DESCRIPTIONS

APPENDIX L - MAP

[NOTE: See attached Exhibit "A" for map that is herein incorporated as Appendix L.]

APPENDIX K - MAP 1 - DISTRICT DESCRIPTIONS

THE ENTIRE TEXT OF APPENDIX L (DISTRICT DESCRIPTIONS) IS HEREBY DELETED AND REPLACED WITH THE FOLLOWING:

District 41. Bounded on the north by Charlotte County line. Bounded on East by Hendry County line. Then bounded on west by SR31 from north continuing south to Okeechobee Waterway (Caloosahatchee River) Continuing to follow City Limits of Fort Myers to southern boundary of Section 19 Township 44 Range 26 east to southeastern corner of Section 22 Township 44 Range 26. Then north along eastern boundary of Section 22 Township 44 Range 26 to northeast corner of Section 10 Township 44 Range 26. Following northern boundary of Section 10 Township 44 Range 26. Proceeds to north along western boundary of Section 03 Township 44 Range 26 then following Township 43 southern boundary to Hendry County Line which bounds on the east.

District 42. North boundary Charlotte County line. Bounded on east by the eastern boundary of Range 25. Bounded on the south by Okeechobee Waterway (Caloosahatchee River), then from Section 21 Township 44 Range 24 follows boundary of Cape Coral City Limits to the north and west ending at Charlotte Harbor which bounds this district to the west. District 42 also includes the enclaves within Cape Coral City Limits east of east boundary of Range 24.

District 43. Bounded by Hendry County line in the East. North boundary is the northern boundary of Township Line 44 to northeast corner of Section 03 Township 44 Range 26 then proceeds south along east boundary of Section 03 Township 44 Range 26 follows south boundary of Section 03 Township 44 Range 26. The west boundary then follows the east

boundary of Section 10 Township 44 Range 26 to southeast corner to Section 22 Township 44 Range 26. Boundary follows along Section 27 Township 44 Range 26 west to the Cape Coral City Limits then follows Cape Coral City Limits south to the Gateway District #49. East from Gateway District #49 at northern boundary of Section 17 Township 45 Range 26, then south along east boundary of Section 17 Township 45 Range 26 to Township 45 south boundary line traveling east on south boundary line of Township 45 to northeast corner of Section 01 Township 46 Range 26, then south along east boundary of Section 01 Township 46 Range 26 to Northwest corner to Section 19 Township 46 Range 27 and follows north boundary Section 19 Township 46 Range 27 to Collier County Line which bounds district on the east.

District 44. Northern boundary City of Fort Myers City Limits and Southern boundary of Gateway District #49, east on northern boundary of Section 17 Township 45 Range 26. Bounded on the east by the northeastern boundary of Section 17 Township 45 Range 26 to northwest corner of Section 09 Township 46 Range 26. Bounded on the south from northwest corner of Section 09 Township 45 Range 26 to Section 07 Township 46 Range 25 following Section 07 Township 46 Range 25 and Section 12 Township 46 Range 24 northern boundaries, then south from northwest corner of Section 12 Township 46 Range 24 to northwest corner of Section 25 Township 46 Range 24, then west along northern boundaries of Section lines to City of Fort Myers Beach City Limits and then bounded by San Carlos Bay. Western boundary San Carlos Bay, the Intracoastal Waterway (ICW), and Cape Coral City Limits. District #44 also includes enclaves in City of Fort Myers City Limits and Six Mile Cypress Slough.

District 45. East boundary Cape Coral City Limits and Charlotte Harbor in Section 01 Township 43 Range 22 (Western boundary of District #42). South boundary Intracoastal Waterway (ICW) following west along Intracoastal Waterway (ICW), and east boundary of District #47 Gasparilla Island and then bounded on the north by the Charlotte County Line.

District 46. Represents Sanibel, North Captiva and Cayo Costa and is bounded on the north by the navigational channel into Boca Grande Pass, on the east by the Intracoastal Waterway (ICW) within Pine Sound and San Carlos Bay and western boundary of District #44, and on the south by the Gulf of Mexico, from the western boundary of District #44 to the main navigational channel into Boca Grande Pass.

District 47. Represents Gasparilla Island bounded by the Charlotte County line to the north, on the east by the Intracoastal Waterway (ICW) within Charlotte harbor from the Charlotte County line to the Boca Grande Pass including Cayo Pelau, on the south by the main navigational channel into Boca Grande Pass, and on the west by the Gulf of Mexico from Boca Grande Pass to the Charlotte County line.

Districts 48. East boundary Collier County line. South boundary City of Bonita Springs City Limits. West boundary City of Bonita Springs City Limits and City of Fort Myers Beach City Limits to the northern boundary of Section 29 Township 46 Range 24. Northern boundary northwestern boundary of Section 29 Township 46 Range 24 outside of City of Fort Myers Beach City Limits east along northern Section lines to northwest corner to Section 25 Township 46 Range 24, then north from northwest corner to Section 25 Township 46 Range 24 to northwest corner of Section 12 Township 46 Range 24, then following the northern boundaries of Section 12 Township 46 Range 24, and Section 07 Township 46 Range 25, then following Alico Road to the northwest corner of Section 09 Township 46 Range 26, north from the corner of Section 09 Township 46 Range 26 to the northwest corner of Section 04 Township 46 Range 26, then east from the northwest corner of Section 04 Township 46 Range 26 to the northeast corner of Section 01 Township 46 Range 26, then south from the northeast corner of Section

01 Township 46 Range 26 to the northwest corner of Section 19 Township 46 Range 27, then east from the northwest corner of Section 19 Township 46 Range 27 to the Collier County line.

District 49. This District represents the Gateway Services District outside of the City of Fort Myers City Limits.

SECTION THREE: CONFLICTS OF LAW

Whenever the requirements or provisions of this Ordinance are in conflict with the requirements or provisions of any other lawfully adopted ordinance or statute, the most restrictive requirements will apply.

SECTION FOUR: SEVERABILITY

It is the Board of County Commissioner's intent that if any section, subsection, clause or provision of this ordinance is deemed invalid or unconstitutional by a court of competent jurisdiction, such portion will be considered a separate provision and will not affect the remaining provisions of this ordinance. The Board of County Commissioners further declares its intent that this ordinance would have been adopted if such invalid or unconstitutional provision was not included.

SECTION FIVE: CODIFICATION AND SCRIVENER'S ERRORS

The Board of County Commissioners intend that this ordinance will be made part of the Lee County Code; and that sections of this ordinance can be renumbered or relettered and that the word "ordinance" can be changed to "section", "article" or some other appropriate word or phrase to accomplish codification, and regardless of whether this ordinance is ever codified, the ordinance can be renumbered or relettered and typographical errors that do not affect the intent can be corrected with the authorization of the County Manager, or his designee, without the need for a public hearing.

SECTION SIX: EFFECTIVE DATE

The ordinance will take effect on June 1, 2005.

THE FOREGOING ORDINANCE was offered by Commissioner _____, who moved its adoption. The motion was seconded by Commissioner _____, and being put to a vote, the vote was as follows:

ROBERT P. JANES
DOUGLAS ST. CERNY
RAY JUDAH
TAMMY HALL
JOHN E. ALBION

DULY PASSED AND ADOPTED THIS _____ day of May, 2005.

ATTEST:
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: _____
Deputy Clerk

By: _____
Chairman

APPROVED AS TO FORM:

By: _____
Office of County Attorney

S:\LU\Jch\JchLDC Amendments\2005 Parks Impact Fee(032305).wpd

