

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

Blue Sheet No. 20051480

1. ACTION REQUESTED/PURPOSE: Conduct second public hearing on proposed amendment to the School Impact Fee Schedule set forth in Chapter 2 of the Lee County Land Development Code.

2. WHAT ACTION ACCOMPLISHES: Florida Statutes, Chapter 125, requires public hearings prior to amending an ordinance. The public hearing allows the public to address the Board of County Commissioners on the proposed changes to the school impact fee schedule. The public hearing is also a prerequisite to the adoption of the amended fee schedule.

3. MANAGEMENT RECOMMENDATION: Adopt ordinance.

4. Departmental Category: 5:05 PH #1 **5. Meeting Date:** 10-25-2005

6. Agenda:		7. Requirement/Purpose: (specify)		8. Request Initiated:	
<input type="checkbox"/> Consent	<input checked="" type="checkbox"/> Statute	<u>125.66</u>	Commissioner		
<input type="checkbox"/> Administrative	<input checked="" type="checkbox"/> Ordinance	<u>LDC</u>	Department <u>County Attorney</u>		
<input type="checkbox"/> Appeals	<input type="checkbox"/> Admin. Code		Division <u>Land Use</u>		
<input checked="" type="checkbox"/> Public	<input type="checkbox"/> Other		By: <u>Donna Marie Collins</u>		
<input type="checkbox"/> Walk-On					

9. Background:
In November 2001, the Board of County Commissioners adopted a School Impact Fee. The terms of the ordinance contemplate a periodic update to the fee schedule. The County retained Duncan Associates to prepare a study to determine the appropriate revisions to the fee schedule.

The Office of the Lee County Attorney has prepared a draft ordinance to amend the School Impact Fee schedule that is supported by the study prepared by Duncan Associates. Copies of the proposed ordinance School Impact Fee Study have been provided to all incorporated municipalities within Lee County.

The proposed ordinance has been reviewed by several committees including the Land Development Code Advisory Committee, the Executive Regulatory Oversight Committee, the Local Planning Agency, and the Affordable Housing Committee. The recommendations of those boards and committees are summarized in a memorandum attached hereto.

- Attachments: 1) Memo summarizing Committee Review
2) Draft Ordinance dated 9-28-05
3) FAIS
4) Educational School Impact Fee study prepared by Duncan Associates dated September 27, 2005

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.	
	N/A	N/A	N/A	<u>[Signature]</u>	RK 10/12	DP 10/12-8	10/12	10/12/05	<u>[Signature]</u> 10-23-05

11. Commission Action:

- Approved
 Deferred
 Denied
 Other



RECEIVED BY COUNTY ADMIN:
<u>10-23-05</u>
<u>-2-</u>
COUNTY ADMIN FORWARDED TO:

**SCHOOL IMPACT FEES ORDINANCE
SUMMARY OF COMMITTEE AND MUNICIPALITY REVIEW
TO DATE**

COMMITTEES

Land Development Code Advisory Committee	
Meeting date:	9/9/05 @ 8:00 a.m., DCD 1B
Synopsis:	LDCAC recommendation is to revisit the methodology in less than three years if Amendment 9 to the Florida Constitution is repealed or if the Charter School population becomes volatile.

Executive Regulatory Oversight Committee	
Meeting date:	9/21/05 @ 2:00 p.m., DCD 1B
Synopsis:	EROC recommends that the Board not adopt the fee update until a solution can be found to alleviate the burden of impact fees on affordable and workforce housing. Committee recommends that BOCC consider reducing the administrative fees below the 2.3 percent currently assessed under the current ordinance. If the fee increase is to be adopted, the committee recommends that any application submitted before January 1, 2006, should be entitled to pay the old fee without limitation.

Affordable Housing Committee	
Meeting date:	9/22/05 @ 2:00 p.m., Administration Building 1 st Floor
Synopsis:	Request County Commission to consider revising AC-13-4 to permit incorporated municipalities to participate in the school impact subsidy program and also to extend the program into future years using the same funding source (interest accrued on school impact fees collected).

Local Planning Agency

Meeting date:	9/26/05 @ 8:30 a.m., BOCC Chambers
Synopsis:	Vote 3-2 for a finding of consistency with the Lee Plan. Dissenters expressed concern over possible inconsistency with unnamed Affordable Housing policies.

LEE COUNTY ORDINANCE _____

AN ORDINANCE AMENDING CHAPTER 2 OF THE LEE COUNTY LAND DEVELOPMENT CODE, ARTICLE VI (IMPACT FEES), DIVISION 6, SCHOOL IMPACT FEES; PROVIDING FOR AN AMENDMENT TO SECTION 2-405, COMPUTATION OF AMOUNT; AND SECTION 2-407, PAYMENT; AND PROVIDING FOR CONFLICTS OF LAW, SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, AND EFFECTIVE DATE.

WHEREAS, the Florida Constitution requires that adequate provision be made by law for a uniform system of free public schools; and

WHEREAS, Lee County is constituted as a separate school district, and the School Board is empowered by law to operate, control, and supervise all free public schools in the district; and

WHEREAS, Florida Statutes, Section 235.193, and Lee County Comprehensive Land Use Plan (Lee Plan) Policy 66.1.1. requires the coordination and planning between school boards and the county commission to ensure that plans of public education facilities are coordinated in time and place with plans for residential development and other necessary public services; and

WHEREAS, Lee Plan Objective 66.1. requires the County to cooperate with the Lee County District Board of Education to ensure that school locations are consistent with county growth policies and the needs of the future population; and

WHEREAS, Lee Plan Policy 158.5.1. requires the County to coordinate with and assist the Lee County School Board in the orderly and rational expansion of educational facilities that enhance economic growth and a desired quality of life; and

WHEREAS, in order to maintain appropriate levels of service, Lee County District School System must expand the capacity of the system to accommodate new development in the District. This expansion of capacity is necessary to promote and protect the public health, safety, and welfare of the residents of Lee County; and

WHEREAS, the County desires to raise funds to pay for the public school system, which serves the municipalities as well as the unincorporated areas of the County; and

WHEREAS, under Florida Statutes, Section 163.3202, Florida counties are encouraged to adopt innovative land development regulations that include, among other provisions, impact fees; and

WHEREAS, Lee Plan Policy 2.3.2 provides that impact fees may be used to defray the cost of providing and expanding services and facilities that benefit new development; and

WHEREAS, the imposition of a school impact fee is one method of ensuring that new development bears a proportionate share of the capital cost of educational facilities necessary to accommodate new development; and

WHEREAS, Lee Plan Policy 46.1.3 provides that county staff, together with economic consultants and the school district, will develop an impact fee program to address the capital costs for schools and present it to the Board of County Commissioners; and

WHEREAS, the imposition of a school impact fee in Lee County must be pursued in order to promote and protect the public health, safety, and welfare; and

WHEREAS, Lee County has agreed to adopt an ordinance providing for the imposition of a school impact fee in Lee County for the benefit of the School District of Lee County; and

WHEREAS, as a Charter County, Lee County has the power to impose impact fees countywide to fund capital facilities provided on a countywide uniform basis; and

WHEREAS, it is the County's intent to have the School Impact Fee Ordinance applied countywide; and

WHEREAS, the proposed impact fee is derived from and based upon, but does not exceed, the cost of providing for the acquisition of new school sites, the expansion and equipping of existing educational facilities, and the construction and equipping of new educational facilities necessitated by new development for which the impact fee is imposed; and

WHEREAS, the educational impact fee study prepared for the School District of Lee County by Duncan Associates in association with Dr. James C. Nicholas, sets forth a reasonable methodology and analysis for the determination of impact of new residential development on the need for and cost of additional educational facilities in the Lee County School District; and,

WHEREAS, the School Impact Fee Ordinance was adopted by the BOCC in 2001; and,

WHEREAS, the adoption of the ordinance triggered a challenge to the legality of the methodology utilized to set the fee schedule; and,

WHEREAS, the County successfully defended the challenge to the legality of the School Impact Fee; and,

WHEREAS, Section 2-405(d) contemplates the periodic update to the fee schedule.

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, is amended as follows:

**CHAPTER 2
ARTICLE VI. IMPACT FEES
DIVISION 6. SCHOOL IMPACT FEES**

Sec. 2-405. Computation of amount.

- (a) At the option of the Feepayer, the amount of the school impact fee may be determined by the schedule set forth in this subsection. The reference in the schedule to mobile home refers to the number of mobile homes or mobile home park sites that are permitted by the applicable final development order or mobile home move on permit as appropriate.

<i>Land Use Type</i>	<i>School Impact Fee per Unit</i>
Single-family residence	\$2,232 4,309
Multiple-family building, duplex, two-family attached or townhouse	\$694 1,704
Mobile home	\$425 982

- (b) When change of use, redevelopment or modification of an existing use requires the issuance of a building permit, mobile home move-on permit or mobile home park development order, the school 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.
- (c) If the school 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 school impact fees are owed, no municipal 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 county may bring any action permitted by law or equity to collect unpaid fees.

- (d) The impact fee schedule set forth in Section 2-405(a) will be administratively reviewed and re-analyzed every three years. As a result of this review, county staff is authorized and directed to pursue amendments to the impact fee schedule consistent with the results of the review and re-analysis.

Sec. 2-407. Payment.

- (a) The Feepayer must pay the school impact fee required by this division to the building official prior to the issuance of the building permit, mobile home move-on permit, or mobile home park development order for which the fee is imposed, except as provided in section 2-412. No building permit, mobile home move-on permit or mobile home park development order may be issued by the county or by any municipality until the impact fee has been paid, except as provided in section 2-412.
- (b) The fee schedule in effect prior to January 1, 2006, 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 December 31, 2005, will be assessed an impact fee based upon the fee schedule applicable on December 31, 2005, but only if the building permit or mobile home move-on permit is issued on or before March 31, 2006.
 - (2) A building permit or mobile home move-on permit or recreational vehicle park development order application submitted after December 31, 2005, or any building permit or mobile home move-on permit or development order issued after March 31, 2006, will be subject to the amended impact fee schedule.
 - (3) After March 31, 2006, the Director may accept payment according to the fee schedule in effect prior to January 1, 2006 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 December 31, 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 March 31, 2006; 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 April 30, 2006.

SECTION TWO: 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 THREE: 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 FOUR: 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 FIVE: EFFECTIVE DATE

The ordinance will take effect on January 1, 2006.

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 _____ 2005.

ATTEST:
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: _____
Deputy Clerk

By: _____
Chairman

APPROVED AS TO FORM:

By: _____
Donna Marie Collins
Office of County Attorney

**LEE COUNTY, FLORIDA
 FINANCIAL & ADMINISTRATIVE IMPACT STATEMENT
 PROPOSED COUNTY ORDINANCE:
AMENDMENT TO SCHOOL IMPACT FEE ORDINANCE**

II. Fiscal Impact on County Agencies/County Funds.

A. What is estimated Demand? (Develop Indicators) N/A

B. What is estimated Workload? (Develop Indicators) N/A

C. What are estimated costs?

	1st Year \$'s		2nd Year \$'s	
	<u>Existing</u>	<u>New</u>	<u>Existing</u>	<u>New</u>
Personnel	N/A		N/A	
Fringe	N/A		N/A	
Operating	N/A		N/A	
Capital Outlay	N/A		N/A	
Total	N/A		N/A	

D. List the anticipated revenues to cover costs identified in II, C, above. If a fee is to be charged, answer the following:

1. What is the basis (rationale) for the fee? Update to fee schedule

2. Do the anticipated fees cover the full cost of operation? If not, what percentage of the costs are covered?

N/A

E. Give a brief narrative analysis of the information contained in II. A through D, above.

Financial Impact: Permit fees will increase effective 1-1-06 as follows:

Single Family – from \$2,232 to \$4,345

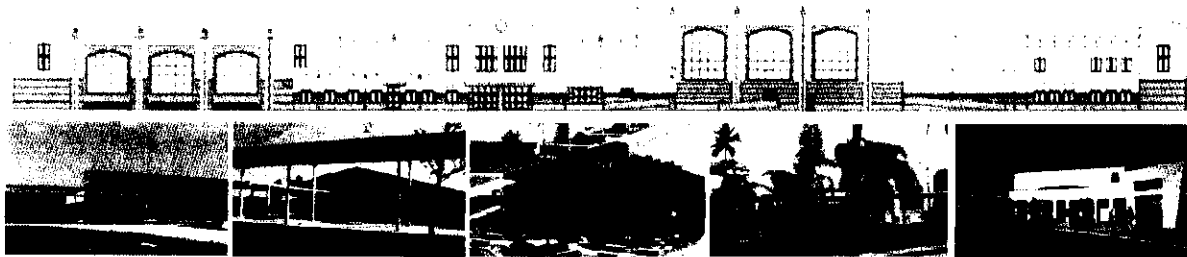
Multi-Family, Duplex, Two-Family Attached, Townhouse – from \$691 to \$1,719

Mobile Home – from \$425 to \$990

Those applications submitted by 12-31-05, and are issued a permit/development order by 3-31-06, will be eligible for complying with current fee schedule rather than new 1-1-06 fee schedule. Specific other exceptions may allow payment from the current fee schedule as outlined in Section 2-407(b)3 of the amending School Impact Fee Ordinance.

SCHOOL IMPACT FEE UPDATE STUDY

prepared for **LEE COUNTY, FLORIDA**



prepared by **duncan** | associates

in association with

Dr. James C. Nicholas

Dr. Henry H. Fishkind

Maxwell & Hendry Valuation Services, Inc.

September 2005

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prepared by Duncan Associates
 Clancy Mullen, Principal Author
 13276 Research Blvd., Ste. 208, Austin, TX 78750
clancy@duncanplan.com 512.258.7347 ext 204

INTRODUCTION

This study was commissioned by Lee County to update the school impact fee calculations. The Lee County Board of County Commissioners adopted an ordinance imposing school impact fees in November 2001. The county-wide ordinance requires all new residential development within Lee County to pay applicable impact fees prior to the issuance of a building permit. Municipalities within the county collect the fees and turn them over to the County, which in turn transmits them to the School Board to be spent on growth-related improvements according to the terms of an interlocal agreement between Lee County and the School District.

METHODOLOGY

The methodology used in the original school impact fee study¹ was challenged by a group of plaintiffs that included the Lee Building Industry Association and First Homebuilders of Florida. The non-jury trial was held by the 20th Judicial Circuit Court in Lee County. The judge ruled in favor of the County, holding that the school impact fee methodology met both prongs of the dual rational nexus test. The Second District Court of Appeal upheld the judge's decision, without opinion, and denied a request for rehearing, eliminating the possibility of further appeals.

While we believe that the basic methodology is sound, some adjustments have been made in this update to address concerns raised by the trial court. The judge felt that the methodology should take into consideration future appreciation of property values. The primary rebuttal to this was that, although property value appreciation was not taken into account, neither were other factors that had the effect of overstating the credit. Ultimately, the trial judge agreed that any understatement of the future property tax credit due to failure to account for appreciation was adequately compensated for by other aspects of the methodology that tended to overstate credits and understate costs.

This update responds to the court's critique through changes to the methodology with the intent to make it as accurate as possible in all aspects and without bias toward either a higher or a lower fee. Inevitably, the result of these changes is to make the methodology somewhat more complex.

As noted, the court felt that it is appropriate to take into account the appreciation of real property values over time, resulting in the payment of more property taxes in the future, given the School District's history of charging the maximum 2-mill capital rate allowed by State law. Other changes were made to correct assumptions that were overly generous to development interests. The most generous of these assumptions was that 100 percent of State and local capital funding generated by new development would be available to fund growth-related capital needs. In fact, as is documented in this report, the majority of the District's anticipated capital funding over the next five years is needed for repair, replacement and renovation of existing capital facilities. This update also does not give credit for capital funding that is used to pay interest on debt. Since interest costs are not included on the cost side, no credit is given for the interest portion of debt service payments.

Another generous aspect of the original study was to include a credit for past property taxes paid by vacant land. Such a credit is fundamentally different from the future property tax credit, which represents funding that will actually be available to help defray some of the growth-related costs

¹ Duncan Associates and Dr. James C. Nicholas, *Lee County School Impact Fee Study*, November 2001

resulting from new development. Property taxes paid in the past by owners of previously vacant land are not available to mitigate the impacts of new development, and consequently no credit for such past payments is necessary. Finally, this update includes some costs that were not included in the original study such as technology, furniture, fixtures and equipment and off-site costs.

LEGAL FRAMEWORK

Impact fees are a way for local governments to require new developments to pay a proportionate share 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 and type of dwelling units constructed. 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.

School impact fees have been litigated and upheld in Florida. In *St. Johns County v. N.E. Fla. Homebuilders*, the Florida Supreme Court ruled in 1991 that school impact fee ordinances do not conflict with the state constitutional requirement of a uniform system of public schools, and that neither the state constitution nor state law preempts county school impact fees. The Court did rule, however, that the failure of municipalities within the county to participate in the school impact fee could invalidate the ordinance, since some of the funding would be used to construct schools that would benefit development not subject to the fee. For this reason, the Court held that no impact fee could be collected under the ordinance until “substantially all of the population of St. Johns County is subject to the ordinance.”

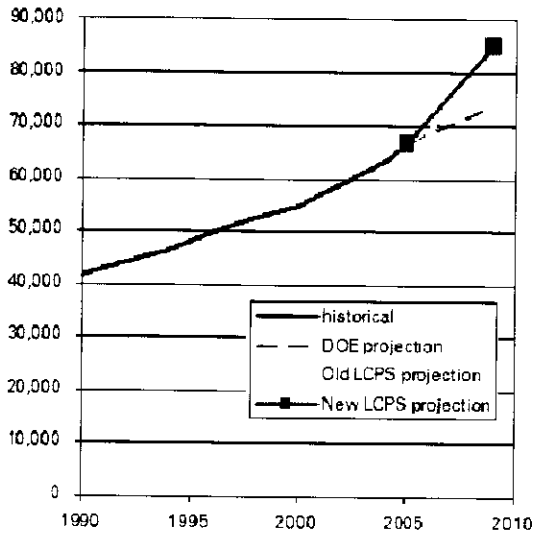
In 2000, the Florida Supreme Court heard another school impact fee case, *Volusia County v. Aberdeen at Ormond Beach, L.P.* The case was brought by the company that owns Aberdeen at Ormond Beach Manufactured Housing Community, an age-restricted mobile home park. The mobile home park had restrictive covenants that imposed limits on the age of residents, including a prohibition against permanent residence by persons younger than 18 years old. In its May 2000 ruling, the Court held that the school impact fee ordinance should not apply to age-restricted communities, because they will not generate a need for additional school facilities.

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” standards.² The standards set by court cases generally require that an impact fee meet a two-part test:

²There 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).

- 1) The need for new facilities must be created by new development, and
- 2) The expenditure of impact fee revenues must provide benefit to the fee-paying development.

Figure 1
ENROLLMENT, 1990-2009



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:³

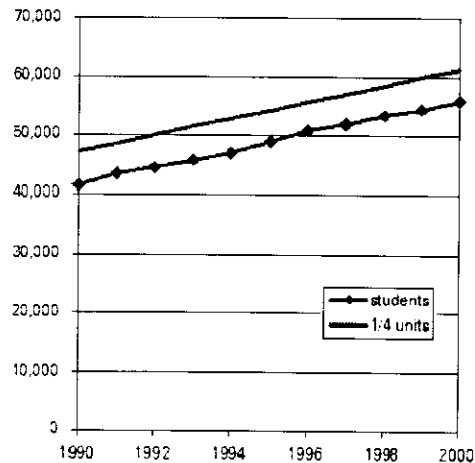
In order to satisfy these requirements, the local government must demonstrate a reasonable connection, or rational nexus, between the need for additional capital facilities and the growth in population generated by the subdivision. In addition, the government must show a reasonable connection, or rational 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.

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 educational facilities. The County's comprehensive plan expresses the County's commitment to "assist the Lee County School Board in the orderly and rational expansion of educational facilities that enhance economic growth and a desired quality of life."⁴ The county's rapidly-growing population creates demands for new school facilities in order to maintain acceptable levels of service. Total public school enrollment in Lee County increased by over 20,000 students in the last ten years, and it is anticipated that enrollment will increase by about another 10,000 in the next five years, according to official Department of Education projections, as illustrated in Figure 1 above.

It is clear that growth in residential dwelling units leads to increases in public school enrollment. Figure 2 illustrates how closely Lee County Public School enrollment tracked

Figure 2
STUDENTS & HOUSING, 1990-2000



³ *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).

⁴ Lee County, *The Lee Plan*, as amended through June 2003, Policy 110.5.1.

Lee County housing unit growth during the 1990s. It is obvious that without new residential development, there would not be the significant increases in public school enrollment that Lee County Public Schools has been experiencing.

There can be no disputing that increases in public school enrollment will create the need for capital improvements to expand school facilities. Due to the passage of Amendment 9, mandated classroom size reductions mean that Lee County Public Schools does not have sufficient classrooms to serve existing students, much less new students generated by residential development.

The County's school impact fees are proportional to the number of students expected to enroll in public school in Lee County. Student generation rates derived from 2000 U.S. Census data for Lee County have been calibrated against actual public school enrollment in Lee County Public Schools, and further adjusted to account for the fact that some public school students will attend charter schools. This methodology ensures that the school impact fees assessed are proportional to the impacts of the development. In addition, the impact fees are reduced to take into account future local school taxes and State funding that will be generated by new residential development and used for capacity-expanding capital improvements. Finally, the school impact fee ordinance contains a provision 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.⁵

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. To comply with this standard, the fees must actually be used to fill the need that serves as the justification for the fees under the first part of the test. The school impact fee ordinance contains provisions requiring that impact fee revenues be spent only on growth-related educational capital improvements, defining "capital improvement" as:

*land acquisition, equipment purchase, site improvements, off-site improvements and construction associated with new or expanded public elementary or secondary schools and support facilities. Capital improvements do not include maintenance and operations.*⁶

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

Another way to ensure that the fees are 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 Lee County's school impact fee ordinance contains provisions

⁵ Lee County Land Development Code, Sec. 2-406

⁶ Lee County Land Development Code, Sec. 2-403

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

requiring that the fees be returned to the fee payer if they have not been spent or encumbered within ten years of fee payment.⁸

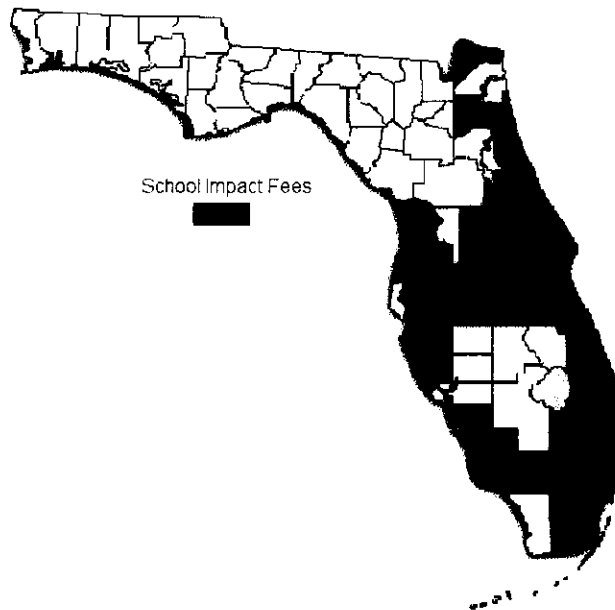
A final method of ensuring benefit is to restrict the funds to be spent in the geographic area in which they are collected. Currently, the county is divided into three “School Choice Zones” for the purpose of ensuring ethnic diversity in school populations. Since students may not attend a school outside the Choice Zone in which they reside, the ordinance provides that as long as the Choice Zones are in effect, the fees collected within each Choice Zone will be spent within that same Zone. Additional discussion of this issue is presented in the “Benefit Districts” section of this report.

In sum, ordinance provisions requiring the earmarking of funds, refunding of unexpended funds to feepayers, and restriction of impact fee revenues to be spent within the school choice zone in which they were collected ensure that the fees are spent to benefit the fee-paying development.

SCHOOL IMPACT FEES IN FLORIDA

In Florida, the more populous, urban counties where the most growth has been occurring (the two traits tend to go together in Florida) have been the ones that have enacted school impact fees. Currently, there are 25 Florida counties that charge school impact fees. Over two-thirds of all counties that added more than 20,000 people during the 1990s have enacted school impact fees, while only one of the counties falling below that threshold has school impact fees, as shown in Table 1.

Figure 3
COUNTIES WITH SCHOOL IMPACT FEES



⁸ Lee County Land Development Code, Sec. 2-410

**Table 1
FLORIDA COUNTY POPULATION GROWTH, 1990-2000**

County	2000 Population	1990-2000 Pop. Growth	School Fees	County	2000 Population	1990-2000 Pop. Growth	School Fees
Broward	1,623,018	367,530	Yes	Flagler	49,832	21,131	Yes
Miami-Dade	2,253,362	316,268	Yes	Highlands	87,366	18,934	No
Palm Beach	1,131,184	267,666	Yes	Columbia	56,513	13,900	No
Orange	896,344	218,853	Yes	Nassau	57,663	13,722	Yes
Hillsborough	998,948	164,894	Yes	Walton	40,601	12,841	No
Duval	778,879	105,908	No	Hendry	36,210	10,437	No
Lee	440,888	105,775	Yes	Wakulla	22,863	8,661	No
Collier	251,377	99,278	Yes	Levy	34,450	8,527	No
Polk	483,924	78,542	Yes	DeSoto	32,209	8,344	No
Seminole	365,196	77,667	Yes	Suwannee	34,844	8,064	No
Brevard	476,230	77,252	Yes	Hardee	26,938	7,439	No
Volusia	443,343	72,631	Yes	Okeechobee	35,910	6,283	No
Pinellas	921,482	69,823	No	Jackson	46,755	5,380	No
Osceola	172,493	64,765	Yes	Putnam	70,423	5,353	No
Marion	258,916	64,083	*	Gilchrist	14,437	4,770	No
Pasco	344,765	63,634	Yes	Washington	20,973	4,054	No
Lake	210,528	58,424	Yes	Gadsden	45,087	3,982	No
Manatee	264,002	52,295	Yes	Baker	22,259	3,773	*
Sarasota	325,957	48,181	Yes	Bradford	26,088	3,573	No
Leon	239,452	46,959	No	Dixie	13,827	3,242	No
St. Lucie	192,695	42,524	Yes	Union	13,442	3,190	No
St. Johns	123,135	39,306	Yes	Glades	10,576	2,985	No
Alachua	217,955	36,359	No	Holmes	18,564	2,786	No
Santa Rosa	117,743	36,135	*	Hamilton	13,327	2,397	No
Clay	140,814	34,828	Yes	Madison	18,733	2,164	No
Escambia	294,410	31,612	No	Taylor	19,256	2,145	No
Charlotte	141,627	30,652	No	Franklin	11,057	2,090	No
Hernando	130,802	29,687	Yes	Calhoun	13,017	2,006	No
Okaloosa	170,498	26,722	No	Gulf	13,332	1,828	No
Martin	126,731	25,831	Yes	Jefferson	12,902	1,606	No
Citrus	118,085	24,570	Yes	Monroe	79,589	1,565	No
Indian River	112,947	22,739	Yes	Liberty	7,021	1,452	No
Sumter	53,345	21,768	No	Lafayette	7,022	1,444	No
Bay	148,217	21,223	No				

Source: 1990 and 2000 U.S. Census * school impact fees under consideration.

The school impact fees charged by individual counties vary widely. For a typical three-bedroom, 2,000 square foot, single-family detached home, the fees range from a low of \$196 per unit in Hillsborough County (the fee covers land costs only and has not been updated since 1986) to a high of \$9,708 per unit in Osceola County.

**Table 2
FLORIDA SCHOOL IMPACT FEES**

County	Fee*
Hillsborough	\$196
Seminole	\$1,384
Martin County	\$1,467
Pasco	\$1,694
Broward	\$1,747
Indian River	\$1,756
Collier **	\$1,778
Citrus	\$1,861
Clay	\$2,000
Sarasota	\$2,032
Lee **	\$2,232
Hernando	\$2,406
Dade	\$2,448
Palm Beach	\$3,171
Manatee	\$3,400
Flagler	\$3,600
Nassau	\$3,726
St. Johns	\$3,771
Brevard	\$4,445
St. Lucie ***	\$4,956
Volusia	\$5,443
Orange	\$7,000
Lake	\$7,055
Polk ***	\$8,596
Osceola	\$9,708

* for 2,000 square-foot, single-family detached unit with three bedrooms

** fee update currently in progress

*** effective 12/1/05

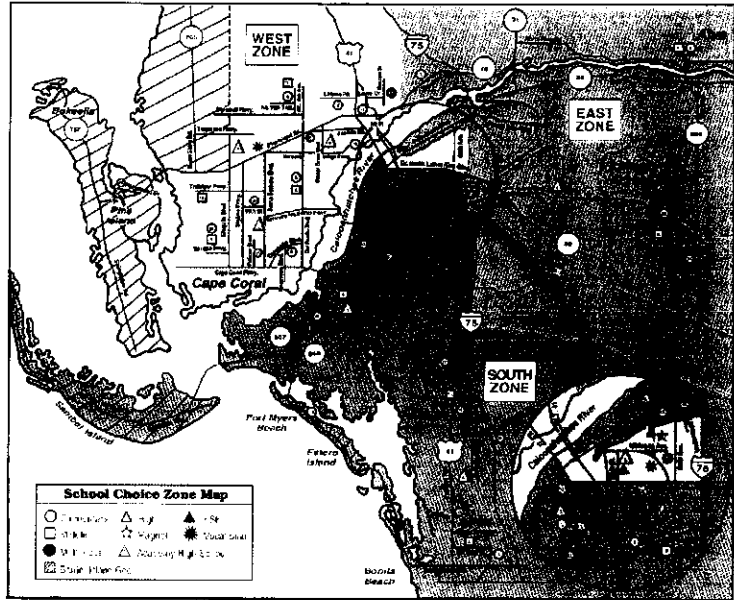
Source: Survey by Duncan Associates, Sept. 27, 2005

BENEFIT DISTRICTS

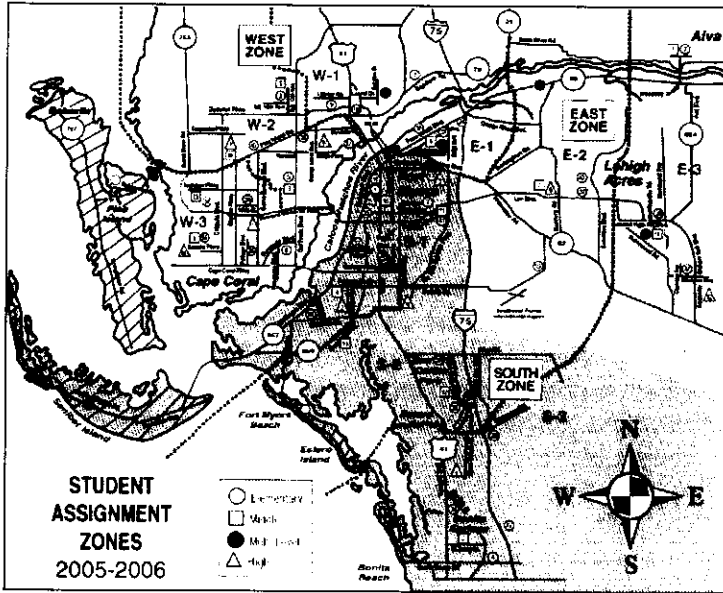
When implementing school impact fees, the geographical area in which collected funds may be expended while providing benefit to the fee-paying development must be established. This geographical area is the "benefit district." Fees collected within a benefit district are spent on capital improvements within that district.

For the purpose of assigning students to individual schools, Lee County is divided into three "School Choice Zones." Students' parents may request that their children be assigned to any school of their choice within the School Choice Zone in which they live, and assignments are based on the parental ranking of school preference as well as a number of other factors. The current School Choice Zone boundaries, shown in Figure 4, have been in place since the program was initiated in 1998.

**Figure 4
CURRENT SCHOOL CHOICE ZONES**



**Figure 5
AMENDED SCHOOL CHOICE ZONES**



The School Choice Zones will be amended slightly beginning in the 2005-2006 school year. The new zonal boundaries are shown in Figure 5. The boundary modifications affect only a small area in downtown Fort Myers.

Under the County's school impact fee ordinance, the School Choice Zones essentially serve as informal, temporary benefit districts. Section 2-409 states: "For example, so long as the school board maintains a school choice system where students must attend a school within the zone where they reside, then all funds must be spent within the zones where they are collected. Fees collected from one school choice zone may be spent on a capital improvement in another school choice zone only if it can be demonstrated that the improvement will benefit the fee-payers

in the original school choice zone. For example, the construction of magnet schools and administrative facilities that provide benefits across school choice zones."

The school impact fee revenues collected over the past three years in each of the Choice Zones are summarized in Table 3. There is substantial and increasing growth in each of the three zones, which generates sufficient revenue to undertake capital projects.

Table 3
SCHOOL IMPACT FEE REVENUE, 2002-2004

Choice Zone	2002	2003	2004
East	\$2,664,882	\$4,497,686	\$9,040,039
West	\$4,479,499	\$9,897,739	\$14,717,281
South	\$6,235,441	\$7,946,375	\$10,852,897
Total	\$13,379,822	\$22,341,800	\$34,610,217

Source: Revenues by calendar year from Lee County Community Development Department, November 22, 2004 and April 20, 2005.

In the event that School Choice Zones are someday dispensed with, the resulting county-wide benefit district would be reasonable. The construction of a school anywhere in the county will increase capacity to serve new development, regardless of location. As new schools are constructed, attendance zones are also modified to ensure that the capacity is efficiently utilized. A new residential development subject to a school impact fee is not guaranteed that its students will attend a new school paid for with those impact fees, just as a new development paying road impact fees is not guaranteed the ability to drive exclusively on new roads funded with those road impact fees. Instead, the benefit to an impact fee paying development is that the impact fees are spent to expand the overall capacity of the public school system, so that the students living in new developments have student stations available for them, regardless of whether those stations are in new or existing schools.

Regardless of whether or not the county is divided in multiple benefit districts, the Lee County School District will strive to locate new schools as close as possible to where new residential development is occurring in order to promote neighborhood schools and minimize pupil transportation costs. To provide an assurance that impact fees will be spent in a manner that will provide benefit to fee payers, the School Board adopted a policy to the effect that it intends to spend impact fee funds largely on new schools that are located as close as possible to where new residential development is occurring. Because of the cost of new schools, it will not be possible to construct a new school in close proximity to all growth areas in the county every year. Nevertheless, it should be possible to show a reasonable correlation between where new schools funded by impact fees are located and where new residential growth is occurring in the School Board's five-year capital improvements plan, which is updated on an annual basis.

STUDENT GENERATION RATES

The impact of new residential development on the demand for school facilities is based on the average number of public school students generated per dwelling unit. The student generation rates are not calculated as the ratio of students to occupied units, since not all units are occupied at all times. To take into account less than full occupancy, the student generation rates are calculated as the ratio of students to total dwelling units.

2000 U.S. Census Data

Public school districts in Florida are responsible for providing educational services to pre-kindergarten children eligible for Exceptional Student Education (ESE) programs as well as kindergarten through twelfth grade (K-12) students. The best available data source on student generation rates by type of dwelling unit is the 2000 U.S. Census 5-percent Public-Use Microdata Samples (PUMS). The 2000 PUMS data for Lee County consists of census enumerations for 13,107 occupied and vacant housing units. In using the census sample data, public school students are defined as persons enrolled in public school and attending preschool through 12th grade. The student generation rates from the 2000 census sample data by housing type are shown in Table 4.

Table 4
STUDENT GENERATION RATES, 2000

Housing Type	Sample Size (Units)	Public School Students	Total Units	2000 Students/Unit
Single-Family Detached	6,673	44,292	122,972	0.360
Multi-Family	4,365	11,627	82,124	0.142
Mobile Home	2,069	3,254	39,671	0.082
All Housing Types	13,107	59,173	244,767	0.242

Source: U.S. Census Bureau, weighted 2000 PUMS 5% sample data for Lee County; public school students are defined as persons attending preschool through 12th grade in public school.

These rates are significantly different than the rates derived from the 1990 PUMS data reported in the 2001 school impact fee study. The rates reported in the previous study were based on data from ten years earlier, and defined public school students by age rather than by grade level (the 1990 census did not record a student's current grade level). The important aspect is not the rates themselves, since they were calibrated to actual enrollment, but the relative rates among housing types. Between censuses, the multi-family student generation rate increased by 27 percent relative to the single-family rate, and the mobile home rate increased by 19 percent. As a result of this change alone, it can be expected that multi-family and mobile home impact fees will increase significantly more than will single-family fees.

Calibrating to 2000 Actual Enrollment

To ensure that the student generation rates derived from the 2000 sample data are representative of actual conditions in 2000, the expected public school students based on the number of dwelling units enumerated by the 2000 census and the student generation rates derived from the 2000 census sample data is compared to the actual public school enrollment in the Lee County School District for that year.

As Table 5 shows, the actual students enrolled in Lee County Public Schools is only 92.7 percent of the expected number of students. This indicates that the student generation rates derived from the 2000 census sample data somewhat over-predict actual student enrollment in Lee County Public Schools.

**Table 5
EXPECTED AND ACTUAL STUDENTS, 2000**

Housing Type	2000 Units	Student Generation Rate	Expected Students
Single-Family Detached	122,543	0.360	44,115
Multi-Family	82,920	0.142	11,775
Mobile Home	39,942	0.082	3,275
Total Expected Students, April 2000			59,165
Actual Cycle 7 Enrollment, April 4, 2000			54,833
Ratio of Actual to Expected Students			0.927

Source: 2000 units from 2000 U.S. Census, Summary File 3 (weighted 1-in-6 sample data); student generation rates from Table 4; actual cycle 7 enrollment (excludes charter school, juvenile detention and other students not housed by the school district) from Lee County Public Schools, April 25, 2005.

Clearly, the student generation rates from the 2000 sample data over-state actual student enrollment. Calibrating for the actual number of students and dwelling units at the time of the 2000 census, the rates have been adjusted downward by 7.3 percent, as shown in Table 6.

**Table 6
CALIBRATED STUDENT GENERATION RATES**

Housing Type	2000 Students/Unit	Adjustment Factor	Calibrated Students/Unit
Single-Family Detached	0.360	0.927	0.334
Multi-Family	0.142	0.927	0.132
Mobile Home	0.082	0.927	0.076
All Housing Types	0.242	0.927	0.224

Source: 2000 students per unit from Table 4; adjustment factor from Table 5.

New Units versus All Units

The student generation rates discussed so far have been based on all dwelling units existing in Lee County at the time of the 2000 census. However, the 2000 census sample data also allow us to look at how student generation varies with the age of the unit. These data allow us to confirm that new dwelling units do, in fact, contain public school children and therefore have an immediate impact on the need for new school facilities. These data, displayed in Table 7, clearly confirm that new dwelling units, regardless of whether “new” is defined as units built in the last five, ten or 20 years, contain substantial numbers of public school students and thus have an immediate impact on the need for public educational facilities. The fact that the number of students per unit fluctuates somewhat depending on the age of a dwelling unit is to be expected, but the impact fee should be based on the

expected student occupancy over the life of the housing unit.⁹ The impact of new development is not confined to the immediate impact, but also includes the long-term impact. The Lee County public school system will have the responsibility of providing facilities to serve a new dwelling unit in perpetuity.

**Table 7
STUDENT GENERATION BY AGE OF THE HOUSING UNIT**

Housing Type	All Units	Age of the Housing Unit (Years)			
		0-5	6-10	11-20	>20
Single-Family Detached	0.360	0.341	0.374	0.360	0.364
Multi-Family	0.142	0.114	0.105	0.103	0.202
Mobile Home	0.082	0.116	0.038	0.072	0.097
All Housing Types	0.242	0.244	0.246	0.209	0.267
Sample Size	13,107	2,007	1,609	4,249	5,242

Source: U.S. Census Bureau, 2000 PUMS 5% sample data for Lee County; public school students are defined as persons attending preschool through 12th grade in public school; age of unit based on year built, with 0-5 years old being units built 1995 through 2000, etc.

Adjusting for Charter Schools

An adjustment to the student generation multipliers may be required to account for charter school enrollment. Charter schools are public schools that receive State educational funding but are not required to meet all of the requirements that apply to regular public schools. In particular, charter schools do not have to meet all of the State requirements for capital facilities that apply to regular public schools. The existence of charter schools relieves the regular public school system of the cost of providing capital facilities for the students enrolled. However, there is no guarantee that individual charter schools will not fail and return the responsibility of providing capital facilities for their students to the regular public school system.

Charter school enrollment in Lee County has grown significantly in the last five years. As shown in Table 8, charter schools have grown from only 15 students in the 2000/2001 school year to almost 3,800 this past year, and from less than one percent to more than five percent of public school enrollment.

⁹ As the Florida Supreme Court observed in *St. Johns County, et al. v. Northeast Florida Builders Ass'n*, 583 So.2d 635 (1991): "During the useful life of the new dwelling units, school-age children will come and go. It may be that some of the units will never house children. However, the county has determined that for every one hundred units that are built, forty-four new students will require an education at a public school."

Table 8
CHARTER SCHOOL ENROLLMENT, 2001-2005

	2000/01	2001/02	2002/03	2003/04	2004/05
Charter Schools	15	19	420	2,007	3,796
Regular Public Schools	56,966	59,157	61,269	63,379	66,462
Total Public Schools	56,981	59,176	61,689	65,386	70,258
Percent Charter	0.03%	0.03%	0.68%	3.07%	5.40%

Source: Lee County Public Schools, April 8, 9 and 25, 2005; all enrollment figures are cycle 7 (March/April) except charter school enrollment for 2000/01 and 2001/02, which are cycle 1 (August/September).

This recent rapid growth in charter school enrollment, coupled with the uncertain long-term viability of charter schools, makes future projections problematic. Lee County Public Schools, in making projections of its capital needs, acknowledges current charter school enrollment but does not assume any growth of charter school enrollment in the future. This seems to be a prudent course for public facility planning under these conditions of uncertainty, and the same approach will be taken in the impact fee analysis. If charter school enrollment had not increased as a percentage of total enrollment since 2000, the year for which the student generation rates were calibrated, no adjustment would be necessary. However, the percentage has increased significantly, as shown in the previous table. In Table 9, the calibrated student generation rates for new units calculated earlier are reduced by the current percent of charter school students.

Table 9
NON-CHARTER STUDENT GENERATION RATES

Housing Type	Calibrated Students/Unit	Percent Non-Charter Students	Calibrated Non-Charter Students/Unit
Single-Family Detached	0.334	94.60%	0.316
Multi-Family	0.132	94.60%	0.125
Mobile Home	0.076	94.60%	0.072
All Housing Types	0.224	94.60%	0.212

Source: Calibrated student generation rates from Table 6; percent non-charter students in 2004-05 school year from Table 8.

EXISTING LEVEL OF SERVICE

A fundamental principal of impact fees is that new development should not be held to a higher standard than existing development. If the impact fees are based on a higher standard than currently exists, new development must not be required to both pay the impact fee and pay taxes that are used to remedy the existing deficiency, unless credit against the fees is given for such tax payments.

In the arena of school impact fees, the level of service can be measured in terms of the overall ratio of students to school capacity. School capacity is determined in accordance with standards developed by the State, as described below.

Student Station Capacity

The Florida Department of Education (DOE) maintains an inventory of student stations in schools. This inventory is referred to as the Florida Inventory of School Houses (FISH).

In the November 2002 election, Florida voters approved the Classroom Size Reduction Amendment (Amendment 9) to the Florida Constitution. Section 1 of Article IX of the State Constitution establishes, by the beginning of the 2010-2011 school year, the following maximum number of students in core-curricula courses assigned to a teacher: (1) Pre-kindergarten through grade 3: 18 students; (2) grades 4 through 8: 22 students; and (3) grades 9 through 12: 25 students.

Following passage of the amendment, the Legislature enacted SB-30A, which requires school districts to reduce the average number of students in each classroom by at least two students per year beginning with the 2003-2004 fiscal year until the maximum number of students per classroom does not exceed the 2010-2011 maximum. If a district's class size does not meet the required maximum, the district must reduce to the constitutional maximum in each of the three grade groupings or the average number of students in each of the three grade groupings by at least two-students-per-year as follows:

- o 2003-2004, 2004-2005 and 2005-2006 at the district level;
- o 2006-2007 and 2007-2008 at the school level; and
- o 2008-2009 at the classroom level.

Following the passage of the class size amendment, DOE adjusted (lowered) FISH classroom capacities to reflect the targets of 18 students per room in grades K-3, 22 per room in grades 4-8 and 25 per room in grades 9-12. However, sometime in 2004, DOE reverted back to pre-amendment capacities after concluding that they had made the adjustments without authority. While the recommended changes are pending, DOE must maintain the adopted version until revised, but has advised Lee County Public Schools that it is permissible to use post-amendment FISH in the 5-Year Work Programs. Lee County has adopted the use of post-amendment FISH for all internal and external purposes.

There are two types of FISH capacities: FISH Satisfactory Student Stations and Actual FISH Capacity. FISH Satisfactory Student Stations are computed by multiplying the core-curriculum classrooms by the post-amendment maximum students per class by grade level (different capacities are specified for specialized classrooms). Actual FISH Capacity takes into account DOE adopted utilization rates. The "official" utilization rates are: 100 percent of Satisfactory Student Stations for elementary schools, 90 percent for middle schools and 95 percent for high schools. Utilization rates give districts some flexibility at middle and high school levels to accommodate reasonable inefficiencies created with

multiple class changes, electives and other activities. Schools that have a combination of grade levels (e.g., K-8s and 6-12s) take on the school-wide utilization rate of middle schools (90 percent). The proposed change related to class size above also recommends that all school types have utilization rates of 95 percent; therefore, "Capacity" will be computed by multiplying Satisfactory Student Stations by 0.95 at all levels. Here too, the District has chosen to use the proposed rate.

Existing School Inventory

To determine the current level of service for educational facilities in Lec County, an inventory was prepared of existing schools completed and in service for the 2004/2005 school year. Table 8 shows the existing school inventory, including the name of each school, site area, building square feet (permanent and portable), capacity in student stations based on post-amendment Florida Inventory of School Houses (FISH) standards, and current (March 2005) enrollment. Charter schools and students confined in juvenile detention facilities were not included in the inventory, because the District is not responsible for funding the capital costs of serving these students.

Table 10
EXISTING SCHOOL INVENTORY

School	Acres	Permanent Sq. Feet	Portable Sq. Feet	Actual Capacity	2004/2005 Enrollment
Allen Park Elementary	14.00	83,390	9,600	820	931
Alva Elementary	5.00	46,524	0	267	485
Bayshore Elementary	20.00	56,931	8,960	482	664
Bonita Springs Elementary	5.00	47,480	3,120	413	373
Caloosa Elementary	20.00	110,310	960	701	1,092
Cape Coral Elementary	14.00	89,769	960	677	991
Colonial Elementary	19.00	89,226	6,720	744	775
Diplomat Elementary	32.00	91,185	6,624	790	1,011
Edgewood Renaissance	13.00	92,356	2,400	609	723
Edison Park Elementary	7.00	70,956	0	457	466
Franklin Park Elementary	20.00	82,723	8,160	538	560
Ft Myers Beach Elementary	11.00	27,020	0	190	204
Gateway Elementary	16.00	111,893	0	775	1,046
Gulf Elementary	30.00	94,690	3,360	1,225	1,580
Hancock Creek Elementary	20.00	118,197	2,253	694	1,003
Heights Elementary	25.00	75,704	4,800	719	865
J. Colin English Elementary	15.00	91,658	8,880	632	875
Lehigh Elementary	15.00	79,533	4,560	688	953
Littleton Elementary	20.00	108,424	960	694	962
Michigan Montessori (K-8)	18.00	83,627	9,840	593	633
Mirror Lakes Elementary	25.00	99,954	2,160	592	862
North Ft Myers Academy (K-8)	53.00	193,071	89,348	878	1,379
Orange River Elementary	14.00	75,305	6,670	707	813
Orangewood Elementary	13.00	86,249	6,480	713	843
Pelican Elementary	22.00	90,047	4,320	757	1,014
Pine Island Elementary	15.00	54,379	960	353	467
Pinewoods Elementary	37.00	107,408	9,360	766	958
San Carlos Park Elementary	23.00	89,614	6,240	792	1,000
Skyline Elementary	20.00	87,295	7,296	730	989

School	Acres	Permanent Sq. Feet	Portable Sq. Feet	Actual Capacity	2004/2005 Enrollment
Spring Creek Elementary	21.00	90,737	1,440	784	797
Sunshine Elementary	18.00	90,997	5,520	873	1,053
Tanglewood Riverside Elementary	20.00	76,598	4,800	576	767
The Sanibel School (K-8)	25.00	55,241	10,800	423	423
Three Oaks Elementary	19.00	86,694	5,040	678	1,008
Tice Elementary	21.00	70,443	9,600	612	732
Trafalgar Elementary	57.00	69,608	0	523	613
Tropic Isles Elementary	20.00	85,250	7,280	676	1,081
Veterans Park Academy (K-8)	20.00	152,716	0	1,145	878
Villas Elementary	22.00	86,531	8,400	761	860
Elementary School Subtotal	804.00	3,399,733	267,871	26,047	32,729
Alva Middle	13.00	81,299	4,320	670	572
Bonita Springs Middle	16.00	120,723	6,912	912	875
Caloosa Middle	20.00	132,060	0	1,032	1,202
Cypress Lake Middle	29.00	137,171	7,200	1,086	1,240
Diplomat Middle	14.00	138,827	0	1,027	1,249
Ft Myers Middle Academy	20.00	125,734	720	825	768
Gulf Middle	30.00	126,599	4,176	955	1,269
Lee Middle	20.00	145,535	4,560	897	641
Lehigh Acres Middle	35.00	126,595	16,848	1,121	946
Mariner Middle	16.00	102,009	0	706	769
Paul Laurence Dunbar Middle	50.00	163,548	0	1,004	1,138
Three Oaks Middle	25.00	137,880	2,160	930	1,031
Trafalgar Middle	68.00	143,128	10,080	1,232	1,422
Varsity Lakes Middle	14.00	118,017	0	981	752
Middle School Subtotal	370.00	1,799,125	56,976	13,378	13,874
Cape Coral Sr High School	40.00	262,475	8,640	1,971	2,193
Cypress Lake Sr High School	30.00	268,538	2,160	1,898	1,977
Dunbar High School	55.00	202,324	0	1,229	1,021
Esteros Sr High School	69.00	273,777	0	1,909	1,979
Ft Myers Sr High School	38.00	244,883	1,840	1,797	2,231
Ida S. Baker High (in West Staging School)	19.78	0	43,680	0	618
Lehigh Sr High School	82.00	283,299	0	1,739	2,008
Mariner Sr High School	104.00	253,905	9,600	1,978	2,178
North Ft Myers Sr High School	35.00	254,877	8,640	2,100	2,152
Riverdale High School (6-12)	40.00	223,595	960	1,583	1,972
High School Subtotal	512.78	2,267,673	75,520	16,204	18,329
Regular Facility Subtotal	1,686.78	7,466,531	400,367	55,629	64,932
Buckingham Exceptional Ctr	20.00	26,383	0	84	115
Ft Myers Sr High School (Edison Ctr)	4.00	22,786	0	124	80
Lee County High Tech Central	30.00	181,289	15,600	834	135
New Directions School	15.00	141,483	0	561	902
North Vo-Tech	15.00	61,927	0	391	86
Royal Palm Exceptional	7.00	59,332	0	200	212
Special Facility Subtotal	91.00	493,200	15,600	2,194	1,530
Total of All Schools	1,777.78	7,959,731	415,967	57,823	66,462

Source: Lee County Public Schools; Actual Capacity based on post-Amendment 9 standards and 95% utilization rate; enrollment based on seventh cycle (March 23, 2005).

Student-Capacity Ratio

The existing level of service will be measured as the ratio of students to Actual FISH Capacity in permanent buildings. Since the costs per student are calculated for permanent buildings, the FISH capacity will be reduced by the percentage of building space in permanent buildings. As shown in Table 11, the current use of portable classrooms amounts to 5 percent of school building square footage.

The existing level of service for educational facilities in Lee County is summarized in Table 11. District-wide, Lee County Public Schools does not currently provide enough classrooms to meet the Classroom Size Reduction Amendment standards of maximum students per classroom that it needs to provide by the 2010-2011 school year. Overall, the District has a deficit of about 11,530 permanent student stations, and is only providing about 82.7 percent of the permanent capacity needed to meet post-amendment standards.

Table 11
EXISTING LEVEL OF SERVICE

Permanent School Building Square Feet	7,959,731
Total School Building Square Feet	8,375,698
Percent of Sq. Ft. in Permanent Buildings	95.0%
Total Actual FISH Capacity, 2004/2005 School Year	57,823
Actual FISH Capacity in Permanent Buildings, 2004/2005	54,932
Enrollment, 2004/05 School Year (March 23, 2005)	66,462
Current Permanent Student Station Deficit	11,530
Actual FISH Capacity in Permanent Space per Student	0.827

Source: Table 10.

The impact fees, however, will be based on the cost of providing one permanent student station per student. The deficiency in existing capacity is addressed by the District's five-year capital plan, which provides funding for enough new student stations to accommodate anticipated enrollment growth (at least according to official DOE projections) and remedy the existing capacity deficiency, as shown in Table 12. At the end of the five-year period, the District will be in compliance with the Class Size Reduction Amendment, providing at least one permanent student station per student. In the revenue credits, new development is given credit for any capital funds programmed for capacity expansion in the five-year plan, and this includes remedying the existing capacity deficiencies.

**Table 12
 PLANNED NEW STUDENT CAPACITY, FY 2005-2009**

Renovations/Additions with Net Capacity Increase	1,758
Renovations/Additions with Net Capacity Decrease	(2,963)
New School Construction	24,654
Total Net New Permanent Student Stations Added	23,449
Net New Enrollment Anticipated	(9,981)
Current Permanent Student Station Deficit	(11,530)
Capacity Surplus for Future Growth	1,938

Source: Lee County Public Schools, Tentative Facilities Work Program for Fiscal Years 2004/2005 through 2008/2009, November 16, 2004; current student station deficit from Table 11.

School district officials contend that the official DOE projections that it is required to use in the five-year plan that it files with DOE are too low. In the adopted plan, the District inserted a note that it expected 77,311 Capital Outlay Full-Time Equivalent (CO-FTE) students in the 2008-2009 school year, rather than the 73,482 projected by DOE. Based on growth trends and enrollment growth since the District filed the current plan in November 2004, the District's current projections are even higher.

CAPITAL COSTS

The capital cost of providing school facilities includes the cost of school construction, land acquisition and ancillary facilities, including administrative offices, fleet maintenance facilities and buses. An additional cost element that was not addressed in the previous study is interest costs associated with debt financing.

Construction Cost

There are basically two ways to add student stations: build new schools or expand existing schools. In most school impact fee analysis, the cost to add student capacity is based on the cost of building new schools. This is true for several reasons. First, the cost of an expansion that adds classroom wings without expanding core facilities, such as cafeteria, gymnasium, library and administrative offices, generally does not include the full cost, either because the core facilities already had excess capacity that was constructed earlier, or else the core facilities are over-utilized and will need to be expanded in the future. Second, expansion projects often include extensive remodeling work, and it may be difficult to sort out what project costs are attributable to the added capacity.

The capacities of existing schools used in this update are based on class-size reduction mandates, which means that many schools are now over-capacity in classrooms, but have sufficient core space. Consequently, the class-size reduction mandates have had a dual effect: (1) they have created capacity deficiencies in many schools; and (2) they have created the potential to remedy these deficiencies by expansions at a lower cost than building new schools (core facilities do not need to be expanded because the number of students will not be increased). The impact fee calculations in this update do not charge new development for remedying the deficiencies, so the fact that they might potentially be remedied at lower cost than building new schools is not relevant. In any case, there are no good historical data or planning estimates for the cost of such expansions, nor are any such expansions included in the District's five-year plan.

Table 10 shows construction costs for recently-constructed elementary, middle, and high schools in the Lee County School District. In order to calculate the average cost per student station, the original school facility construction costs are first adjusted to 2005 dollars using the *Engineering News-Record* Building Cost Index. The adjusted school facility construction costs are then divided by the number of students stations to determine the cost per station. As described earlier, Lee County Public Schools is using post-Amendment 9 class size standards to measure student capacity. However, State construction cost standards that went into effect in 2002 are based on pre-Amendment 9 standards. Consequently, pre-amendment costs per student station are used to determine compliance with State construction caps, while the impact fee calculations will be based on post-amendment costs per student station.

**Table 13
CONSTRUCTION COSTS PER STUDENT STATION**

School Facility	Contract Date	Original Cost	Cost Factor	Current Cost	FISH Student Capacity		Cost/Student Station	
					Pre-Am 9	Post Am 9	Pre-Am 9	Post Am 9
Trafalgar Elementary (ph I)	06/03	\$6,950,000	1.141	\$7,929,950				
Trafalgar Elementary (ph II)	04/04	\$3,961,361	1.074	\$4,254,502				
Trafalgar Elem (total)		\$10,911,361		\$12,184,452	1,074	972	\$11,345	\$12,535
East Staging School	09/04	\$9,622,526	1.023	\$9,843,844	997	757	\$9,806	\$13,004
Harns Marsh Elementary	08/04	\$13,091,715	1.042	\$13,641,567	1,284	954	\$10,624	\$14,299
Hector Cafferata Elem.	01/05	\$9,948,648	1.021	\$10,157,570	1,014	879	\$10,017	\$11,556
Gulf Primary Center	10/02	\$6,468,000	1.150	\$7,438,200	555	555	\$13,402	\$13,402
Ray Pottorf Elementary	08/04	\$12,588,518	1.042	\$13,117,236	1,284	954	\$10,216	\$13,750
South Staging School	09/04	\$9,875,148	1.023	\$10,102,276	1,089	818	\$9,277	\$12,350
Average Elementary							\$10,670	\$12,985
Mariner Middle (phase I)	06/03	\$11,245,473	1.141	\$12,831,085				
Mariner Middle (phase II)	06/03	\$4,760,532	1.050	\$4,998,559				
Mariner Middle (total)		\$16,006,005		\$17,829,644	1,381	1,261	\$12,911	\$14,139
Lexington Middle	10/03	\$17,891,768	1.121	\$20,056,672	1,369	1,169	\$14,651	\$17,157
Varsity Lakes Middle	07/02	\$18,115,802	1.149	\$20,815,056	1,258	1,078	\$16,546	\$19,309
Average Middle School							\$14,703	\$16,868
Dunbar High	06/00	\$16,683,840	1.181	\$19,703,615	1,164	850	\$16,928	\$23,181
Ida S. Baker High	12/03	\$36,960,301	1.117	\$41,284,656	2,000	1,925	\$20,642	\$21,447
South Ft. Myers High	12/03	\$37,663,397	1.117	\$42,070,014	2,000	1,925	\$21,035	\$21,855
Average High School							\$19,535	\$22,161

Source: Lee County Public Schools, March 14, 2005; original cost is for construction only (excludes land, furniture, fixtures and equipment and off-site costs); cost factors based on Building Cost Index as of July 2005 from *Engineering News-Record*; FISH capacities are pre- and post- Amendment 9 (Class Size Reduction Amendment—see preceding description).

State law provides maximum school construction costs per student station that may be incurred by school districts. Section 1013.64(6)(b)1. reads as follows:

(b)1. A district school board, including a district school board of an academic performance-based charter school district, must not use funds from the following sources: Public Education Capital Outlay and Debt Service Trust Fund; School District and Community College District Capital Outlay and Debt Service Trust Fund; Classrooms First Program funds provided in s. 1013.68; effort index grant funds provided in s. 1013.73; nonvoted 2-mill levy of ad valorem property taxes provided in s. 1011.71(2); Classrooms for Kids Infrastructure Program funds provided in s. 1013.735; or District Effort Recognition Program funds provided in s. 1013.736 for any new construction of educational plant space with a total cost per student station, including change orders, that equals more than:

- a. \$12,755 for an elementary school,*
- b. \$14,624 for a middle school, or*
- c. \$19,352 for a high school,*

(January 2002) as adjusted annually to reflect increases or decreases in the Consumer Price Index.

The pre-amendment construction costs per station calculated above are compared with the State-imposed maximum construction costs per student station for the current year in Table 14. As can be seen, the District's construction costs per student station (based on pre-Amendment 9 capacity standards) are below the State maximums.

**Table 14
CONSTRUCTION COST PER STUDENT STATION**

Grade Level	State Cap Jan. 2002	CPI Factor	Adj. Cap Jan. 2005	Local Cost	% of Cap
Elementary	\$12,755	1.0768	\$13,735	\$10,670	77.7%
Middle	\$14,624	1.0768	\$15,747	\$14,703	93.4%
High	\$19,352	1.0768	\$20,838	\$19,455	93.4%

Source: State cap is maximum construction cost per student station from Sec. 1013.64, Florida Statutes for January 2002; CPI factor is ratio of Consumer Price Index, U.S. City Average, All Urban Consumers, All Items, 1982-84 = 100 for January 2005 to January 2002; local cost per station based on pre-Amendment 9 capacity standards from Table 13.

While the comparison to State construction cost caps is appropriately made using the pre-Amendment 9 capacity standards that were in effect at the time they were imposed, the impact fees will be based on the post-Amendment 9 capacities. The average construction costs per student station for elementary, middle and high schools are weighted by current enrollment to produce a weighted average construction cost per student capacity in permanent classrooms of \$16,380, as shown in Table 15.

**Table 15
WEIGHTED CONSTRUCTION COST PER STUDENT STATION**

Grade Level	No. of Students	% of Enrollment	Avg. Cost/ Station	Weighted Cost/Station
Elementary	32,729	50.4%	\$12,985	\$6,544
Middle	13,874	21.4%	\$16,868	\$3,610
High	18,329	28.2%	\$22,078	\$6,226
Total	64,932	100.0%		\$16,380

Source: Number of students in regular facilities from Table 10; average construction cost per station based on post-Amendment 9 capacity standards from Table 13.

Technology and FF&E

Constructing the building itself is not enough to complete a school—the building must first be outfitted with technology enhancements and furniture, fixtures and equipment (FF&E) before it can actually be used to educate children. Based on recent experience, the cost of technology and FF&E has been averaging 11.2 percent, as shown in Table 16. The goal of Lee County Public Schools is to get that percentage down to ten percent, and this figure will be used in the impact fee calculations.

Table 16
SCHOOL TECHNOLOGY AND FF&E COST

Recently-Built School	Construction Cost	Technology/FF&E Cost	Percent of Construction
Ida Baker High	\$36,960,301	\$4,118,848	11.1%
South Fort Myers High	\$37,663,397	\$4,157,999	11.0%
Lexington Middle	\$17,891,768	\$1,915,528	10.7%
Ray Pottorf Elementary	\$12,588,518	\$1,427,860	11.3%
Harns Marsh Elementary	\$13,091,715	\$1,399,966	10.7%
East Staging	\$9,622,526	\$1,102,797	11.5%
South Staging	\$9,875,148	\$1,120,835	11.4%
Hector Cafferatta	\$9,948,648	\$1,276,116	12.8%
Total	\$147,642,021	\$16,519,949	11.2%
Assumed			10.0%

Source: Technology and FF&E costs from Lee County Public Schools, School Support Division, June 10, 2005; original construction cost from Table 13; assumed percentage is goal for current year according to Lee County Public Schools, School Support Division, June 13, 2005.

Off-Site Costs

In addition to on-site construction costs, technology and FF&E, many new school projects require off-site improvements, such as improvements to adjoining streets and sidewalks, water and sewer infrastructure improvements and drainage improvements. Based on recent experience, the cost of off-site improvements has been averaging 2.1 percent of construction cost, as shown in Table 17.

Table 17
OFF-SITE IMPROVEMENT COSTS

Recently-Built School	Type of Off-Site Improvements	Construction Cost	Off-Site Costs	Percent of Construction
Ida Baker High	Aqualinda Blvd, retention pond	\$36,960,301	\$740,410	2.0%
South Fort Myers High	Plantation Rd, waterline relocation	\$37,663,397	\$588,000	1.6%
Lexington Middle	Turning lanes and sidewalks	\$17,891,768	\$602,280	3.4%
Ray Pottorf Elementary	Road, turning lanes and sidewalks	\$12,588,518	\$136,500	1.1%
Harns Marsh Elementary	Road, water & sewer, turning lane	\$13,091,715	\$810,667	6.2%
East Staging	Lift station upgrade	\$9,622,526	\$149,000	1.5%
South Staging		\$9,875,148	\$0	0.0%
Hector Cafferatta	Turning lane and water line	\$9,948,648	\$75,000	0.8%
Total		\$147,642,021	\$3,101,857	2.1%

Source: Off-site costs from Lee County Public Schools, School Support Division, July 20, 2005; original construction cost from Table 13.

Land Cost

The cost of land for new school sites must be added to construction costs. As part of this project, the County retained a real estate appraiser to determine an appropriate land cost for future school sites. The appraiser identified 55 sales throughout Lee County that were comparable to new school sites in size, location and suitability for development. 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 sales prices were adjusted to current dollars (November 2004) based on a 12 percent annual appreciation rate, which reflects recent land appreciation in the stronger growth areas in the county. The average cost per acre in each of the three choice zones was then weighted by the anticipated percent of new schools to be built in each zone to determine a county-wide weighted cost. This procedure was replicated using only 2004 sales, and the appraiser's opinion of \$105,000 was between the averages arrived at using the 3-year and most recent year sales. Up until recently, an additional cost was the County's development review fee, which was \$4,200 per acre as stipulated in an interlocal agreement between the County and the School Board. However, the interlocal was recently changed to eliminate the review fee. The resulting total cost is \$105,000 per acre, as shown in Table 18.

Table 18
SCHOOL LAND COST PER ACRE

Average Land Acquisition Cost per Acre	\$105,000
Review Fee per Acre	\$0
Total Land Cost per Acre	\$105,000

Source: Acquisition cost from W. Michael Maxwell & Associates, Inc, *School Impact Fee Study (Land Component) for Lee County, Florida*, December 12, 2005; no review fee now stipulated in interlocal agreement between Lee County and Lee County Public Schools.

The acreage occupied by existing schools is divided by current enrollment in those schools to determine the acres of land required per student. This is multiplied by the cost per acre to derive the land cost per student, as shown in Table 19.

Table 19
LAND COST PER STUDENT

Total Acres	1,777.8
Current Enrollment	66,462
Acres per Student	0.0267
Land Cost Per Acre	\$105,000
Land Cost Per Student	\$2,804

Source: Total acres and students from Table 10; cost per acre from Table 18.

Ancillary Facility Cost

In addition to schools themselves, the District provides ancillary facilities that must also be expanded as enrollment grows. These ancillary facilities include administration buildings, buses and fleet maintenance facilities. Table 20 shows the building and land costs of the District's ancillary facilities. The construction costs are calculated by multiplying the sum of the permanent square footage of all ancillary facilities by the current estimated cost per square foot for Lee County. The land cost is based on the same cost per acre as school sites.

Table 20
ANCILLARY FACILITY COSTS

Facility	Square Feet	Acres
Dunbar Athletics	478	4.00
Dunbar Community School	35,237	6.00
Gwynne Building	19,692	1.00
Hipps Building	40,222	2.00
Lee Superintendent's Office	64,320	6.00
Maintenance Department	65,419	10.00
Supply Department	18,038	1.00
Transportation Services Central	20,907	10.00
Transportation Services West	20,492	20.00
Total Area	284,805	60.00
Cost Per Sq. Foot/Acre	\$102	\$105,000
Total Cost	\$29,050,110	\$6,300,000

Source: Square feet of permanent buildings and acres of land from Lee County Public Schools, August 10, 2004; cost per square foot based on cost of Lee County Public Education Building (Metro Mall) per Lee County Public Schools, School Support Division, July 21, 2005; cost per acre from Table 18.

Currently, the District has over 700 buses in active service. These includes buses on daily routes and spare buses. The spare buses are used for field trips and as substitute buses when the route buses are in for service. The current unit costs of new school buses are multiplied by the number of buses of each type to determine the total cost of the current bus fleet, as shown in Table 21.

Table 21
EXISTING BUS FLEET COST

Bus Type	Total Fleet	Waiting Auction	Net Fleet	Unit Cost	Total Cost
Type A, Special Needs	23	4	19	\$54,541	\$1,036,279
Type C, 47-Passenger	103	37	66	\$70,129	\$4,628,514
Type C, 65-Passenger	549	68	481	\$74,579	\$35,872,499
Type D, 71-77-Passenger	198	0	198	\$76,331	\$15,113,538
Total Fleet	873	109	764		\$56,650,830

Source: Number of buses in fleet and unit costs from Lee County Public Schools, June 28, 2005.

The total ancillary cost is the sum of all construction, land acquisition/site preparation, and transportation equipment costs, shown in Table 22. The total cost is divided by the current number of students to determine the ancillary capital cost per student.

Table 22
TOTAL ANCILLARY FACILITY COST PER STUDENT

Building Cost	\$29,050,110
Land Cost	\$6,300,000
Bus Fleet Cost	\$56,650,830
Total Ancillary Cost	\$92,000,940
Current Enrollment	66,462
Ancillary Capital Cost Per Student	\$1,384

Source: Building and land costs from Table 20; bus fleet cost from Table 21; current enrollment from Table 10.

Interest Cost

Interest costs are often an unavoidable expense of making growth-related capital improvements under conditions where (1) rapid growth necessitates improvement costs that cannot be funded out of current revenues or (2) capacity must be added in very large increments. Many impact fee ordinances in Florida explicitly authorize the use of impact fees to pay interest costs. For example, Section 2-409(a) of Lee County's school impact fee ordinance states that the impact fee funds "may be used or pledged in the course of bonding or other lawful financing techniques, so long as the proceeds raised thereby are used for the purpose of capital improvements for educational facilities."

If it is legitimate to spend impact fee revenue on interest costs of debt instruments used to construct capital facilities, it must also be legitimate to include interest costs in calculating the impact fee. While Florida does not have a state enabling act, enabling acts in at least seven states explicitly authorize the inclusion of interest costs in calculating impact fees.¹⁰ The provision in Georgia's impact fee enabling act is typical of these:

Projected interest charges and other finance costs may be included if the impact fees are to be used for the payment of principal and interest on bonds, notes, or other financial obligations issued by or on behalf of the municipality or county to finance the capital improvements element but such costs do not include routine and periodic maintenance expenditures, personnel training, and other operating costs.¹¹

Despite broad agreement that interest costs may legitimately be included in impact fee calculations, relatively few communities, at least in Florida, have done so to-date. This is likely a legacy of the earlier impact fee studies, which were purposely conservative in order to avoid legal challenge. While still rare,

¹⁰ Georgia, Hawaii, Nevada, New Mexico, South Carolina, Texas and Utah

¹¹ Sec. 36-71-2(18), Georgia Annotated Statutes

this approach is not unheard of. For example, Palm Beach County adopted school impact fees in 2003 that included an interest cost component.¹²

While there have been few local government in Florida to have included interest costs in the impact fee calculations, there are a number that have explicitly excluded interest payments on outstanding debt from revenue credit calculations on the grounds that interest costs were not included on the cost side of the equation.¹³ This seems to be an eminently reasonable approach, and is the one taken in this study.

Cost Summary

The sum of school construction, technology, furniture, fixtures and equipment, land and ancillary facility costs yields the total capital cost per student required to accommodate the District's growing enrollment, as presented in Table 23.

Table 23
TOTAL CAPITAL COST PER STUDENT

Construction Cost per Student	\$16,380
Technology and FF&E Cost per Student	\$1,638
Off-Site Cost per Student	\$344
Land Cost per Student	\$2,804
Ancillary Facility Cost per Student	\$1,384
Total Capital Cost per Student	\$22,550

Source: Construction cost per station from Table 15; technology and furniture, fixtures & equipment cost based on percent of construction cost from Table 16; off-site costs based on percent of construction cost from Table 17; land cost from Table 19; ancillary facility cost from Table 22.

¹² Nicholas, James C., *2003 Update of Impact Fees for Palm Beach County*, 2003

¹³ See, for example, Tischler & Associates, *School Impact Fees Update Report, Pasco County, Florida*, 2001 and Duncan Associates, *Road Impact Fee Update, Cape Coral, Florida*, May 2005

REVENUE CREDITS

In addition to paying school impact fees, new development will also pay for school facilities through its future contributions to other capital funding sources that will be used to pay for expanding school capacity. The impact fees will be reduced by the present value of those future contributions expected to be made over the next 20 years in order to ensure that new development is not charged twice for the same facilities.

Credit for future revenues, however, only needs to be given for funds that will be available for capacity-expanding improvements. The District's official five-year Work Program submitted to the Florida Department of Education will be examined to estimate the percent of future capital funding likely to be received by the District over the next 20 years that will be available to pay for capacity-expanding improvements.

The District's current five-year plan covers a period during which the District is required to come into substantial compliance with the classroom size standards mandated by Amendment 9. Since the District must bring existing schools up to Amendment 9 standards while also accommodating unprecedented growth, the five-year plan contemplates a massive program of school construction. Capacity-expanding improvements, which include 27 new schools, will cost an estimated \$947 million. Most of this will be paid either with school impact fees or non-recurring revenues, including fund balance and debt proceeds.

The capital funding that the Lee County School Board expects to receive over the next five years, as set forth in the District's five-year Work Program, is summarized in Table 24. The District's major source of capital funding is the local Capital Improvement Tax (CIT). According to its adopted five-year capital plan, the District will raise \$636 million in CIT revenues out of a total recurring capital budget of \$662 million. The addition of impact fees and non-recurring revenues brings the total capital funds anticipated to be available to \$1.32 billion.

Table 24
PLANNED CAPITAL FUNDING, FY 2005-2009

Capital Improvement Tax (CIT)	\$636,173,581
CO&DS Bonds	\$4,726,312
Classrooms For Kids	\$3,876,785
Interest and Miscellaneous	\$16,825,614
Total Non-Earmarked Recurring Revenue	\$661,602,292
Impact Fees	\$161,817,000
COPs Proceeds from FY 2004/05 Issue	\$160,000,000
Allocated Fund Balance	\$319,983,784
PECO Maintenance	\$15,730,697
Total Revenue Available	\$1,319,133,773

Source: Lee County Public Schools, Tentative Facilities Work Program for Fiscal Years 2004/2005 through 2008/2009, November 16, 2004.

School impact fees, of course, must be used for capacity-expanding improvements. The District's capital plan also programs revenue from other one-time sources, such as debt and fund balances, for capacity improvements. Non-capacity purposes, such as maintenance and rehabilitation of existing

facilities, are funded from recurring annual revenue sources, such as the CIT property tax and State capital funding. Recurring funding that is not needed for non-capacity purposes is available for expenditure on capacity improvements.

Debt service for outstanding Certificates of Participation (COPs), which function much like bonds, are anticipated to consume about 35 percent of the District's CIT revenues. Payment of the principal on this debt service, to the extent that it was used for capacity-expanding improvements, will be treated as a capacity-expanding improvement. Principal payments on non-capacity improvements, as well as interest costs, which were not included on the cost side, are excluded from the definition of capacity improvements on the credit side for consistency.

According to the District's five-year plan, 46.6 percent of CIT revenues and State capital funding will be used for capacity-expanding capital improvements, as shown in Table 25.

Table 25
PLANNED CAPITAL EXPENDITURES, FY 2005-2009

	Total	Capacity	Non-Capacity
New Schools	\$630,275,235	\$630,275,235	\$0
Additions	\$32,246,026	\$32,246,026	\$0
Land Purchases	\$84,444,763	\$84,444,763	\$0
Bus/Vehicle Purchases	\$42,289,184	\$13,913,142	\$28,376,042
New Administrative Complex	\$30,366,998	\$17,399,484	\$12,967,514
Capital Outlay Equipment	\$14,575,198	\$14,575,198	\$0
Ancillary Transportation Depots	\$13,172,108	\$13,172,108	\$0
Debt Service for s.1011 Loans	\$6,184,500	\$6,184,500	\$0
Debt Service for COPs	\$221,061,862	\$134,284,550	\$86,777,312
Maintenance/Repair	\$59,057,484	\$0	\$59,057,484
Construction Services Projects	\$8,753,460	\$0	\$8,753,460
Safety and Inspections	\$530,676	\$0	\$530,676
Facilities Project Mgmt/Planning	\$6,046,231	\$0	\$6,046,231
Standardized School Designs	\$916,140	\$916,140	\$0
Transfer to Operating Budget	\$69,024,088	\$0	\$69,024,088
County-Wide Roof Replacement	\$7,800,099	\$0	\$7,800,099
Upgrade/Add Portables	\$12,035,570	\$0	\$12,035,570
Upgrade Technology	\$19,114,945	\$0	\$19,114,945
District Software Systems	\$6,510,315	\$0	\$6,510,315
County-wide HVAC	\$26,426,437	\$0	\$26,426,437
Safety to Life Corrections	\$21,929,528	\$0	\$21,929,528
Technology Repairs/Tech Support	\$195,444	\$0	\$195,444
Total Expenditures	\$1,312,956,291	\$947,411,146	\$365,545,145
Impact Fees	\$161,817,000	\$161,817,000	\$0
Fund Balance	\$319,983,784	\$319,983,784	\$0
COPs Proceeds	\$160,000,000	\$160,000,000	\$0
PECO Maintenance	\$15,730,697	\$0	\$15,730,697
Paid with Non-Earmarked Recurring Revenue	\$655,424,810	\$305,610,362	\$349,814,448
Percent	100.0%	46.6%	53.4%

Source: Lee County Public Schools, *Tentative Facilities Work Program for Fiscal Years 2004/2005 through 2008/2009*, November 16, 2004; non-capacity share of buses is 67.1% for replacement per Lee County Public Schools, July 14, 2005; non-capacity share of new administrative complex cost is based on the ratio of square footage of existing administrative buildings to square footage of new complex per July 8, 2005 e-mail; non-capacity COPs debt service estimated at 39.3%, based on 35.4% of debt service to interest per Lee County Public Schools, "Future Annual Requirements to Retire Debt," March 8, 2005 and 6% of outstanding COPs principal used for replacement schools based on data provided by Lee County Public Schools, June 1, 2005.

State Capital Funding

The State of Florida provides limited funding for capital improvements. The two sources of regular annual State capital funding, Public Education Capital Outlay (PECO) and Capital Outlay and Debt Service (CO&DS), have diminished in recent years and are no longer significant sources of capital funding. PECO new construction revenues to school districts are actually the proceeds of bonds that are retired with revenue from a State surtax on telephone lines. Due to a decrease in phone lines caused by increased usage of cell phones and alternatives to dial-up internet access, among other trends, there are no additional revenues for future PECO bond sales. The average State capital funding per student anticipated over the next five years is \$25.44 per student per year, as shown in Table 26.

Table 26
PLANNED STATE CAPITAL FUNDING, FY 2005-2009

	FY 2004/05	FY 2005/06	FY 2006/07	FY 2007/08	FY 2008/09	5-Year Avg.
PECO New Construction	\$0	\$0	\$0	\$0	\$0	\$0
CO&DS Bond Proceeds	\$2,341,796	\$569,904	\$587,001	\$604,611	\$623,000	\$945,262
Classrooms for Kids	\$3,876,785	\$0	\$0	\$0	\$0	\$775,357
Subtotal, State Funding	\$6,218,581	\$569,904	\$587,001	\$604,611	\$623,000	\$1,720,619
Enrollment	66,462	68,217	69,972	71,727	73,482	n/a
State Funding per Student	\$93.57	\$8.35	\$8.39	\$8.43	\$8.48	\$25.44

Source: Lee County Public Schools, Tentative Facilities Work Program for Fiscal Years 2004/2005 through 2008/2009, November 16, 2004; enrollment estimates based on enrollment for 2004/2005 from Table 10 and 2008/2009 projected enrollment from Work Program.

The present value of future State capital funding over the next 20 years is about \$311 per student. Reducing this by the percent that will be needed for non-capacity improvements, the State capital funding available for capacity expansion over the next 20 years is the equivalent to a current payment of \$145 per student, as shown in Table 27. This amount will be deducted from the total cost per student.

Table 27
STATE FUNDING CREDIT

Average Annual State Capital Funding per Student, FY 2004/05-2008/09	\$25.44
Present Value Factor (20 Years)	12.21
Net Present Value of Future State Capital Funding per Student	\$311
Percent of Capital Funding Available for Capacity Expansion	46.6%
State Funding Credit per Student	\$145

Source: Average annual State capital funding per student from Table 26; net present value factor based on discount rate of 5.24%, which is average interest rate on state and local bonds for the last 120 months (6/1995 through 5/2005) from the Federal Reserve at <http://www.federalreserve.gov/releases/h15/data/m/slbond.txt>; percent of capital funding available for capacity expansion from Table 25.

Capital Improvement Tax

School districts in Florida are authorized to impose a maximum 2-mill property tax for capital improvements known as the Capital Improvement Tax (CIT). New residential developments that will send children to District schools will also pay the CIT. Therefore, it is necessary to calculate a credit to equitably reflect what new developments will pay toward their school capital needs.

The CIT millage rate assessed by Lee County Public Schools is already at the maximum level of \$2.00 per \$1,000 of taxable value. Applying this tax rate to the taxable value per student yields an annual payment per new student. Applying the percentage of capital funding available for capacity expansion yields the annual CIT capacity payment per student that can be expected from new development, as shown in Table 28.

**Table 28
ANNUAL CAPITAL IMPROVEMENT TAX PER STUDENT**

Total Lee County Residential Taxable Value, 2004	\$39,873,367,040
Lee County Public School Enrollment, 2004	63,379
Average Taxable Value per Student	\$629,126
Capital Millage Rate (per \$1,000)	\$2.00
Annual Tax Payments Per Student	\$1,258
Percent of Capital Funding Available for Capacity Expansion	46.6%
Annual CIT Payments for Capacity per Student	\$586

Source. Total taxable value of residential property in Lee County in 2004 from Lee County Property Appraiser, April 15, 2005; non-charter public school enrollment for April 2004 from Table 8; percent of capital funding available for capacity expansion from Table 25.

State law caps increases in taxable value on homesteads at the Consumer Price Index (CPI) or 3 percent, whichever is lower. In recent years the CPI has been increasing at about 2.5 percent. To take into account that residential development will pay more in CIT capacity payments in future years due to appreciation of property value, the annual contribution per student will be inflated at 2.5 percent annually. The anticipated stream of future tax revenues over the next 20 years is discounted to determine the net present value. As shown in Table 29, a credit of \$8,770 per student is appropriate to account for future property tax payments.

**Table 29
CAPITAL IMPROVEMENT TAX CREDIT**

Year	CIT/Student
Year 1	\$586
Year 2	\$601
Year 3	\$616
Year 4	\$631
Year 5	\$647
Year 6	\$663
Year 7	\$680
Year 8	\$697
Year 9	\$714
Year 10	\$732
Year 11	\$750
Year 12	\$769
Year 13	\$788
Year 14	\$808
Year 15	\$828
Year 16	\$849
Year 17	\$870
Year 18	\$892
Year 19	\$914
Year 20	\$937
Total	\$14,972
Net Present Value	\$8,770

Source: Year 1 CIT capacity payment from Table 28; succeeding years inflated by 2.5% annually, which is the average annual increase in the Consumer Price Index over the last 120 months (6/1995 through 5/2005) from <http://data.bls.gov/cgi-bin/surveymost?cu>; net present value based on discount rate of 5.24%, which is average Interest rate on state and local bonds for the last 120 months (6/1995 through 5/2005) from the Federal Reserve at <http://www.federalreserve.gov/releases/h15/data/m/slbond.txt>.

Reducing the capital cost per student station by the amount of the credits for anticipated state funding and the present value of future property taxes that will be paid by new residential development and available to fund capital improvements results in the net cost per student of \$13,635, as shown in Table 30.

Table 30
NET CAPITAL COST PER STUDENT

Total Capital Cost per Student	\$22,550
State Funding Credit per Student	\$145
Future Property Tax Credit per Student	\$8,770
Net Capital Cost per Student	\$13,635

Source: Total capital cost from Table 23; state funding credit from Table 27; future property tax credit from Table 29.

NET COST SCHEDULES

The net cost per dwelling unit is the product of the number of public school students that, on average, can be expected to be generated from the type of unit and the net cost per student calculated in this report. The resulting net costs, which represent the maximum school impact fees that can be justified based on the analysis contained in this study, are shown in Table 31.

Table 31
SCHOOL NET COST PER DWELLING UNIT

Type of Unit	Students/Unit	Net Cost/Student	Net Cost/Unit
Single-Family Detached	0.316	\$13,635	\$4,309
Multi-Family	0.125	\$13,635	\$1,704
Mobile Home	0.072	\$13,635	\$982

Source: Students per unit from Table 9; net cost per student from Table 30.

The potential impact fees shown above represent a significant increase from the current fees, as shown in Table 32. As discussed earlier, the percentage increase is greater for multi-family and mobile home units due to changes in student generation rates derived from the 1990 and 2000 U.S. Census data.

Table 32
POTENTIAL CHANGE IN SCHOOL IMPACT FEES

Type of Unit	Potential Fee	Current Fee	Potential Increase	Percent Change
Single-Family Detached	\$4,309	\$2,232	\$2,077	93%
Multi-Family	\$1,704	\$691	\$1,013	147%
Mobile Home	\$982	\$425	\$557	131%

Source: Potential fees from Table 31.