IN BUSINESS Las Vegas

September 7 - September 13

Current Issue
IBLV Blogs
Special Publications
Search In Business
In Business on TV
In Business in the Media
The List
Book of Lists
Meetings
Event Photos
About InBusiness

- Media Kit
- Subscribe
- Contact Us

County drops plan to boost impact fees

By Brian Wargo / Staff Writer

Carpenter Javier Espinoza frames a home under construction at the master-planned community Inspirada in Henderson.

Photo by Richard Brian

Recent changes in state law have prompted Clark County to scrap a proposal to charge developers more for the extra streets, parks and public safety demands generated by their projects, a county official said.

After spending $200,000 to study the year-old impact fee proposal, county staff killed the plan without even sending it to county commissioners for a vote, said Chuck Pulsipher, the county's planning manager.

Assembly Bill 253, which took effect July 1, makes it more difficult for large cities and counties to exact higher fees for capital improvements and facility expansions within their boundaries, Pulsipher said.

The law requires local governments to create dozens of geographical service areas and conduct separate studies for each to determine the impact of growth and how much can be charged to developers, he said.

"We concluded that the way state law is structured, we were limited in what we could do," he said. "The change in the law didn't make it impossible, but it was the straw the broke the camel's back. We felt it was unworkable. I guess we are back to the drawing board."

Irene Porter, executive director of the Southern Nevada Home Builders Association, said the previous statute never allowed treating the entire county as a single district. She called the new legislation a clarification of existing law and pointed out that her organization backed the 2001 expansion of development fees.

"I have no problems with an impact fee," Porter said. "It just has to be done correctly."

The bill was sponsored by Ed Goedhart (R-Amargosa) who said he wanted to give local governments the ability to use impact fees to pay for the extension of utilities to facilities warranted by growth. The Associated General Contractors and others in the development industry sought additions to the bill to clarify existing legislation, Goedhart said.

"I don't think it was a big change," Goedhart said. "It was just an attempt to clarify what was decided through the courts."

A glance at what developers pay local governments:

• Clark County, Las Vegas, North Las Vegas and Henderson have a residential construction tax for new homes, which increased to 36 cents per square foot in 1999. Prior to the

Goedhart said the legislation was justified to prevent local governments from attempting to use growth as a way to pay for improvements in areas already developed. Government, not gaming, is Nevada's biggest business, and there needs to be more accountability of how government spends money, he said.

Many in local government deride the lack of affordable housing, but the same officials want to charge developers higher fees that drive up the cost of homes, Goedhart said.

"If you buy a house, you shouldn't have to bear the cost of a police or fire stations in another section of town," Goedhart said. "It's the philosophy of the last one in has to pay."

The county's decision will be applauded by the development community, which fears more fees for residential and commercial projects could dampen growth. Developers pass the fees along to homebuyers by boosting prices, which is tough during a housing slowdown. The fees also show up in higher rents for tenants, which can compromise commercial projects' feasibility.

"This is very bad timing to increase costs for the construction of homes," said John Ritter, chief executive officer of Focus Property Group, a developer of master-planned communities, including Mountain's Edge, Providence and Inspirada.

But James Duncan, whose firm Duncan Associates conducted the fee study for Clark County, said a building slowdown is the best time to implement higher development fees because there are fewer projects in the pipeline. It would not only discourage overbuilding but position the local government to capture the revenue when the market rebounds, he said.

Advocates of higher fees argue they are needed so that existing residents aren't saddled with the expense of improvements necessitated by growth. Without the revenue from additional fees, finding sources of financing for those projects can be difficult, they say.

"That is always the $64,000 question," Pulsipher said. "I suspect there will be some things that aren't funded well. ... We don't want to make housing less affordable when the prices are so high to begin with. But at the end of the day, you have to pay for infrastructure."

Clark County was eyeing impact fees that precisely link a development to public expenses associated with growth and consequent demands for services.

A 1989 state law authorized local governments to charge

housing slowdown, it generated about $18 million a year for new parks. State law limits the tax to $1,000 per home.

• Las Vegas Valley homebuilders pay $700 a home under a regional transportation tax approved by Clark County voters in 2002. The tax will increase to $800 per home in 2010. Commercial developers pay 75 cents a square foot, and that will increase to 80 cents in 2010. Before the slowdown, those taxes generated more than $40 million a year to pay for regional road improvements.

• Developers pay a fee of $550 per acre for habitat conservation as mandated by the federal government. That has generated more than $5 million a year for the region.

• Developers pay real estate transfer taxes that fund schools and local governments. In addition, proceeds from Bureau of Land Management land auctions pay for parks, schools and water infrastructure. Those land auctions have generated $3 billion.

• Clark County requires developers of large master-planned communities to contribute 2.5 acres of land for every 1,000 impact fees and provided a formula for assessing them. The law has since been amended to expand the uses for such fees, which now include drainage, sanitary and storm sewers; fire and police stations; parks; and street and water projects.

Local officials, however, have been reluctant to use the formula, fearing it would slow growth. In its place, a hodge-podge of fee structures has evolved.

County officials contend the existing system is fraught with inequities, and their goal for the new fee plan was to provide a level playing field for everyone. Developers of large master-planned communities, for example, now pay more than smaller homebuilders. Also, developers of housing, office, retail and industrial projects pay more to build in the southwest Las Vegas Valley than in other areas.

In unincorporated Clark County, the developers of master-planned communities must contribute 2.5 acres of land for every 1,000 homes and also pay fees of $200 to $300 per home for traffic signals. But the county's codes exempt most developments of less than 700 acres from those requirements.

Only in the southwest, where most growth is occurring, do developers of such smaller projects pay impact-type fees. But the fees are so low — $467 per home and $455 for each apartment unit — that they cover only a minimal amount of the public cost of the growth they generate, Pulsipher said.

The national average of formula-based development-related fees for the construction of homes, apartments, retail, office and industrial developments, excluding utility hook-ups, was $3,685 in 2005, while Nevada's average was $1,304. Nevada is lower than California and Arizona, but on par with many mountain states, Duncan said.

Nevada's regulation of impact fees is more restrictive than in many other parts of the country. It does not permit governments to charge for libraries, municipal buildings, most new vehicles and equipment, recreation facilities or parks of more than 50 acres.

The changes in state law also are of concern to municipalities. North Las Vegas hired a firm in 2006 to study whether it could charge higher development fees. An earlier feasibility study had suggested fees ranging from $1,300 to $5,700 per home, which would generate up to $28 million annually for roads, parks, police and fire.

The city is now considering fees for fire services, and the City Council may review the proposal after the new state

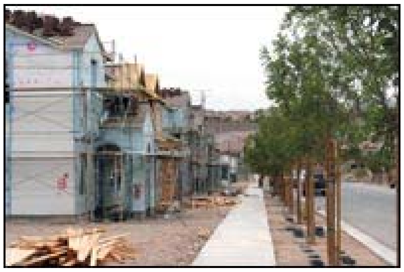
homes and also pay fees of $200 to $300 per home for traffic signals. Clark County and cities also negotiate with developers to donate land for parks or to build parks and fire stations. In 2005, the county collected $1.5 million from major projects for traffic improvements.

• Clark County charges a fee to developers of projects in the Southwest Las Vegas Valley that don't fall under development agreements. It resembles an impact fee but falls well short of capturing the costs actually created by the developments, bringing in $2.1 million in 2005 for parks, police, firefighting and traffic improvements, county officials said. Single-family homes are assessed $467 for parks, transportation and public safety expenses. A retail developer pays $24,000 for public safety and traffic improvements on a 100,000-square-foot project. The cost to install a traffic signal approaches $500,000.

• Developers also pay local governments building permit fees and utility connection fees. In 2005, that generated $26 million for building permits and sewer connections in Las Vegas.

law is analyzed, Fire Chief Al Gillespie said. Two years ago, North Las Vegas discontinued a $400-per-home fee, which generated $2.3 million annually for fire services, prompted by city officials' fear that the fee was illegal.

"We are still pursuing the fire impact fee," Gillespie said. "We have to come up with a way to support the growth. We just want to make sure when we do, it is in compliance with state regulations."



Construction continues at Inspirada in Henderson.

Photo by Richard Brian

Porter said her concerns about impact fees, especially the proposal in North Las Vegas, is that local governments are using the law to get new homeowners to pay for improvements in older neighborhoods.

The fairest way to pay for improvements in all areas would be a bond voted on by the residents, she said. But local governments have not pursued that option out of concern it would fail, she said.

A year ago, Las Vegas said it was weighing development fees for park projects and public safety, but no proposals have been advanced.

Henderson is the lone government that hasn't considered the fees. That city has addressed growth by having developers donate land for schools and parks and build fire stations and bridges.

Brian Wargo covers real estate and development for In Business Las Vegas and its sister publication, the Las Vegas Sun. He can be reached at (702) 259-4011 or by e-mail at wargo@lasvegassun.com.

IBLV Homepage