

The Journal

Working For You Every Day!

Local News

> [News](#) > [Local News](#)

[Print this Page](#)

[«--back to story](#)

Commissioners meet to discuss proposed fees

By JENNI VINCENT / Journal Staff Writer

POSTED: April 25, 2008

MARTINSBURG — A discussion on impact fees — what they are, what they aren't and how they may come to exist locally — took center stage at Thursday's Berkeley County Commission meeting, after members listened to a presentation by Geographical Information System coordinator Matthew Mullenax.

Mullenax, a Planning Commission staffer, spoke during an agenda item relating to zoning. He gave an overview of impact fees as well as where they are covered in state code. Mullenax also discussed how state law dictates that impact fees must be spent.

By definition, an impact fee is "charged to a developer (usually upon subdivision approval) or to a home buyer (usually upon purchase of a lot or upon connection to a utility) to recover that portion of the cost of certain off-site improvements or facilities that is attributable to the subdivision or lot," according to Mullenax.

Impact fees shift costs to new development, he said.

"In other words, impact fees are a mechanism for recovering some of the up-front costs of additional infrastructure necessitated by new residential, commercial or industrial development," Mullenax said.

A part of state code, known as the Local Powers Act, contains seven criteria that are prerequisites to a county levying impact fees: Annual population growth of 1 percent, adoption of a countywide comprehensive plan, updating that plan at no less than five-year intervals, adoption of a zoning ordinance, adopting subdivision regulations, a formal building permit and review system and a capital improvement program.

If implemented, impact fees "must be spent on items identified in a capital improvement plan" as per state law, he said.

"As such, the plan shall be used when determining a proportionate share of capital improvements and public service costs," Mullenax said.

"Currently, Berkeley County does not have a capital improvement plan and would need one, in addition to a zoning ordinance, in order to levy impact fees," he said.

Understanding the impact fee concept is important at this time because of the "misinformation" being circulated, said Commissioner Bill Stubblefield.

"The Local Powers Act doesn't give the county an opportunity to do 100 different taxing fees as was stated at Wednesday night's debate," Stubblefield said, referring to a forum that featured pro- and anti-zoning speakers.

"It's only fair to shift toward the development community, as long as it is modest," he said. "So if we ever do have an impact fee, it should be very modest."

Stubblefield also clarified how an impact fee would be applied locally.

"I do want to emphasize that we're not considering this on existing homes, only new homes, and not on moving mobile homes," he said.

Discussing impact fees may be premature until the May 13 zoning vote takes place, Stubblefield said.

"Legally, we can't have this discussion to establish it until zoning passes and we have a facilities plan. Then we can sit down and set impact fees. Now we're only tentatively discussing it because there are those in the community who are interested in this," Stubblefield said.

Robert "Bob" Heavner, one of the anti-zoning panelists at Wednesday's debate, took exception with the commissioner's remarks at Thursday's session but did not speak during the meeting's public comment portion.

"It's important that they did say that there's nothing to stand in between them and the local powers, the impact fees, once zoning is passed except for writing up a plan. By then, the people have no leverage or control to stop it, once the zoning is there," Heavner said during a meeting break.

"And this plan is just something that they will hire someone to write up for them," he added.

Heavner also said he "found it hard to believe that the Commission had not discussed impact fees before as a body."

He was upset that "they called me a liar from last (Wednesday) night, how they challenged what I said, because what I said was true. There are all kinds of service fees and there could end up being hundreds of them."

His information was taken from West Virginia code, which states that "counties which meet the requirements of having local powers and meet the requirements, they are authorized to assess, levy, collect or administer any tax or fee that has been or may be specifically authorized by the Legislature to general law to the municipalities of the state — meaning anything that Martinsburg can do."

It's also important to refer to section 13 of the state code, which "tells the taxing power of the municipality," Heavner said. "I'm not making statements, I'm reading the ... code."

County attorney Norwood Bentley said commissioners may want to consider impact fees "since this is another tool you may want to use."

Bentley said he personally favors this concept.

"It certainly would offer some relief to those of us who are current title holders of property in this county who have to foot the bill now when people come in. It would relieve those who've lived here a long time and put some pressure on those moving here instead," he said.

"That makes a whole lot of sense to me, and I hope we move in that direction."

— Staff writer Jenni Vincent can be reached at (304) 263-3381, ext. 138, or jvincent@journal-news.net

[Subscribe to Journal News](#)