

**Kane County Road Improvement Impact Fee  
Advisory Committee**

**Kane County Government Center**

**Meeting Minutes - May 24, 2006**

**Members in Attendance:**

Chairman Don Wolfe  
Vice Chairman Frank Griffin  
Dave Morrison (alternate)  
Heidi Files (alternate)  
Christine Ludwiszewski  
Jan Carlson

Kane County Board  
Kane County Economic Development Advisory Board  
Village of Elburn  
Kane County Div. of Transportation  
Attainable Housing Alliance  
Kane County Board

**Absent:**

Christine Klein  
Jeffrey Schielke  
Larry Keller  
Catherine Hurlbut

Fox Valley Association of Realtors  
City of Batavia  
Village of West Dundee  
Kane County Board

**Others Present:**

Deborah Allen  
Ken Shepro  
Carl Schoedel  
Tom Rickert  
Jerry Dickson  
Steve Coffinbargar  
Patrick Jaeger  
Karl Fry  
Phil Bus  
Kai Tarum  
Jerry Swanson  
Ron Naylor  
Tony Speciale  
Mike Ferencak  
Chris Aiston  
Dick Untch  
Charles Radovich  
Jeff Mihelich  
Michael Brown  
Greg Chismark  
Brian Townsend  
Mary Ann Wilkison  
Lisa Armar  
DeWayne Williams

Kane County Board  
Kane County Special Asst. State's Attorney  
Kane County Div. of Transportation  
Kane County Div. of Transportation  
Kane County Div. of Transportation  
Kane County Div. of Transportation  
Kane County Asst. State's Attorney  
Intersect LLC, Consultant for Kane County  
Kane County Development Department  
Kane County Development Department  
City of Batavia  
EEI, Sugar Grove  
Village of Sugar Grove  
Village of Sugar Grove, Community Development  
City of Geneva  
City of Geneva  
Attorney, City of Geneva  
Village of Algonquin  
Village of Montgomery  
City of St. Charles  
City of St. Charles  
Village of Burlington  
Village of Huntley  
Village of North Aurora

**I. CALL TO ORDER**

Chairman Wolfe called the Kane County Road Improvement Impact Fee Advisory Committee meeting to order at 8:00 a.m.

**II. ROLL CALL/ INTRODUCTIONS**

A quorum was established with six (6) voting members present.

**III. PUBLIC COMMENTS - None**

**IV. MINUTES**

April 19, 2006 Meeting Minutes - were approved on motion by Carlson, seconded by Griffin. Motion passed by voice vote of 5-0.

**V. RECEIVING COMMUNICATIONS - None**

**PUBLIC COMMENT - None**

Due to the importance of the agenda matters, Chairman Wolfe recommended that if the Committee could not get through all of the agenda items, to continue the discussion at another date. He reminded the Committee that the

larger issue was traffic congestion and the fees were being implemented to assist with roadway costs to address the traffic issues.

## VI. REPORTS

### A) Consultant Presentations

i. Additional Exemptions/Discounts for Consideration - Mr. Fry reminded the Committee that since the adoption of the current ordinance one of the issues raised was exemptions. The county board asked this Committee to review exemptions comprehensively. Due to the modeling getting underway, Mr. Fry believed getting a recommendation on this matter could be a goal. Mr. Fry reviewed the current six (6) exemptions in place. In addition to the existing exemptions, he identified nine (9) additional exemptions for consideration by the Committee. These could be straight exemptions or discounts: Temporary structures, affordable housing, senior housing, religious institutions; private schools, charitable organizations, nonprofit organizations; hospitals, and governmental housing. To give the board a perspective, Mr. Fry compared Kane County's current exemptions to those of other units of government, as well as those in other states. Each of the following exemptions and their definitions were reviewed in more depth, lead by Mr. Fry:

Temporary Structure - Potential issues with the exemption would be enforcement or the possibility of manufactured homes. Mr. Fry explained he included manufactured homes in the definition for clarity. He surmised that it may have to be addressed in the procedures manual. Carlson asked to verify how mobile homes were specifically handled in the zoning code. Discussion followed that clearer definitions between the mobile construction trailers as opposed to the mobile homes needed to be addressed. After researching the matter, Dir. Tarum stated the county's zoning code did not have a definition of a temporary structure but it did note that mobile homes were handled under the building code. A mobile home was a permitted use in the zoning districts. Morrison was not comfortable in using the county's zoning reference since the municipalities had their own ordinance. He was comfortable with the two-year limitation. **Morrison moved to exempt Temporary Structures from the Impact Fee Ordinance, seconded by Griffin.** Mr. Fry clarified this definition focused mainly on a construction trailer on a commercial site. **Vote: 5-0. Motion carried.**

Affordable Housing - Mr. Fry explained that this exemption, using the impact fee ordinance, will encourage construction of additional affordable housing. However, monitoring by the county or the highway department of the purchase or rental cost would be an issue. The exemption could possibly be limited to housing receiving government subsidiaries. Carlson supported more affordable housing but at a discounted fees; Files concurred, explaining the exemption would support a county policy as adopted as part of the county's 2030 Plan. Discussion followed by Griffin that he would rather see the municipalities encourage affordable housing and not the county so that they can discount the developers and not the county. A discussion followed on how affordable housing generates traffic as compared to more affluent homes, the fact that the contention was difficult to argue, and where traffic statistics were coming from. Carlson explained that a discount could be applied as a policy on what the county would like to encourage or not encourage and a determination of the discount would have to eventually take place. Mr. Fry, however, believed a discount in this case would not be enough to cover the cost. Ludwizewski believed that for every fee assessed upon a development by a municipality, it made it that much more expensive for someone to purchase an affordable home. Morrison conveyed that he was seeing affordable senior units in Elburn and not necessarily single-family units. He believed that if a developer provided a van or shuttle service to shopping areas, etc. it was a way to encourage more mass transit to relieve congestion. Mr. Fry explained that reduced trip rates due to multi-use development can be handled within the current ordinance. County Board member Allan discussed that an incentive may be that a portion of a development become affordable housing as long as county provides a credit on that portion. Discussion followed that the definition could be revised to make ownership a longer length of time than currently stated. **Carlson made a motion to exempt Affordable Housing from the Impact Fee Ordinance, seconded by Ludwizewski. Vote: 4-1 (Nay: Griffin). Motion carried.**

Senior Housing - Issues under this exemption included no evidence that 55+ housing actually lowered trip generation. Rather, Mr. Fry explained it would be better to encourage this type of development through zoning regulations. Carlson believed senior housing generated much traffic. City of Geneva Dir. of Economic Development Chris Aiston pointed out that senior housing located in an urban neighborhood will not generate much traffic whereas a development such as Del Webb located in a rural area, would generate traffic. He believed it warranted a discount. Mr. Fry indicated that such urban developments would qualify for other discounts under the fee and the matter was addressed in the ordinance. **Morrison moved to recommend approval of the senior housing exemption, seconded by Griffin. Vote: 0-5. Motion failed.** Mr. Fry noted that the current ordinance already allowed for a mechanism for discounts if a developer can demonstrate a lower traffic generation, it will result in a lower impact fee.

Religious Institutions - Issues under this exemption include those institutions that use their facilities seven days per week and generate significant traffic. There is difficulty in monitoring the internal uses such as daycare, which is unrelated to the religious portion. Concern was raised about the amount of traffic generated by mega churches, in addition to the traffic generated by their internal day cares and open gym, when opened to the entire community. Dialog was raised that it was difficult to calculate those certain activities out of the fee calculation. Atty. Shepro explained one of the difficulties was how the land use was considered as part of the religious mission and from a land use perspective, he explained that governments have not been able to differentiate between the sanctuary and the other uses. Mr. Mike Brown, with the Village of Montgomery, stated his village acknowledges churches and

religious institutions as a special use. He suggested that the board attach that condition. Morrison responded that in doing so it was now the burden of the villages to prove that a special use was a problem for traffic. He believed it would not address the impact fee. **Carlson moved that Religious Institutions be exempt from the Impact Fee Ordinance, seconded by Ludwiszewski. Vote: 1-4 (Nay: Ludwiszewski, Morrison, Files, Griffin). Motion failed.**

**Private Schools** - Issues with the exemption included that the recognition requirement may eliminate specialty schools such as sports schools, tutoring, etc; the definition provides equity with the existing public school exemption; and the board should consider whether colleges and trade schools should qualify, and, if so, how should they be defined. Discussion followed that public schools are already exempt from the fee and private schools should be exempt also. It was mentioned that by relieving students from the public school system, private schools provide a public service. The Committee agreed that grades Kindergarten through 12 would be the focus. Ludwiszewski discussed that parents sending their children to private schools were already being penalized by subsidizing the public schools and it did not make sense. Wolfe raised discussion on how to address the matter when private schools were attached to religious institutions. Carlson noted that the discussion did cover religious schools. **Ludwiszewski moved that Private Schools be exempt from the Impact Fee Ordinance by the state's definition, seconded by Griffin. Vote: 3-1-1 (Nay: Morrison; Abstain: Files). Motion carried.**

A change in the agenda followed:

**Nonprofit Organizations** - Issues with the exemption included ownership changes and leased space. Some non-profits, such as political organizations, were covered elsewhere in the Internal Revenue Code. Lastly, a delineation was required between non-profits and charitable organizations. Ludwiszewski expressed concern on this matter because it required thorough knowledge of the IRS Code. Atty. Shepro explained the difficulty in breaking down the various organizations exempt under 501(c) as compared to 501(c)(3) exemptions. Per Wolfe's question about appeals, Mr. Fry explained that organizations could appeal on anything but it was a matter of whether there was a basis for the appeal and the ordinance did not give the organizations a basis for appeal unless they demonstrated lower traffic generation, which was a separate process. Carlson believed the board should not even discuss this category because it was too broad. The chairman stated he preferred to put the responsibility on the developer to come to the county to find the exemption instead of the county finding it. Members concurred. **Carlson moved to exempt Nonprofit Organizations from the Impact Fee Ordinance, seconded by Morrison. Vote: 0-5. Motion failed.**

**Charitable Organizations** - An issue with this exemption included the fact that the facility could be purchased in the future by for-profit entities. A possible fairness issue resulted if a charitable organization leased the space instead of purchasing the facility and whether a refund existed. Shepro clarified the definition of a 501(c)(3) organization, i.e., where a donation to the organization may be deducted from an individual's taxes. **Ludwiszewski moved that Charitable Organizations be exempt from the Impact Fee Ordinance, seconded by Griffin. Vote: 0-5. Motion failed.**

**Hospitals** - The issue with the exemption is that hospitals do generate major traffic impacts. Clarification followed that there were for-profit hospitals. Carlson raised discussion that if a new hospital was constructed and the municipality and/or the county worked out a deal to improve traffic at the hospital's expense, would they be allowed a credit. Dir. Schoedel noted there were situations where a hospital or developer constructed improvements on a county roadway. If the project was deemed an eligible project that the county was planning to improve under the Comprehensive Road Improvement Plan, the developer would receive a credit to offset their impact fee. Clarification followed that a developer could not receive a credit on a project unless the project was on the county's CRIP. Mr. DeWayne Williams, with the Village of North Aurora, inquired about including animal hospitals, wherein Mr. Fry conveyed that animal hospitals would not be included under this definition. **Griffin moved to exempt Hospitals from the Impact Fee Ordinance, seconded by Ludwiszewski. Vote: 0-5. Motion failed.**

**Government Housing** - Issues include that the exemption is consistent with the existing exemption for buildings owned, operated, and occupied by a unit of government. Mr. Fry explained that this exemption may be a housekeeping matter. Members discussed the difference between government housing as compared to affordable housing. Atty. Shepro indicated that township-owned senior housing would fall under this definition as well as a military base. Morrison stated he would be more comfortable with the definition if it narrowed the unit of government to city, village, county, township, or housing authority. Asst. State's Atty. Jaeger explained that the board's approval of an exemption for affordable housing would make the issue moot. **Ludwiszewski moved to exempt Government Housing from the Impact Fee Ordinance, seconded by Griffin. Vote: 1-4 (Aye: Griffin; Nay: Files, Morrison, Ludwiszewski, Griffin). Motion failed.**

ii. **Status of Traffic Modeling** - Mr. Fry reported the modeling was still underway.

iii. **Service Area Development Process** - Mr. Fry reviewed the process that the county was going to use to establish service area boundaries under the ordinance, i.e., 1) the fees must be specifically and uniquely attributable to the development; 2) the fee payer must receive a direct and material benefit from the fees paid; and 3) follow the decision made in the Northern Illinois Home Builders vs. DuPage County case.

Mr. Fry explained that by dividing the county into service areas, it meant the board must consider a number of issues and objectives. If the fees were to be uniform, there had to be a balance between the project costs and the amount of development within the service area. Additionally, multiple projects needed to be identified in each service area. The ordinance should also be consistent with the county's 2030 Plan. Wolfe, however, clarified that the 2030 Plan was just a plan and not the ordinance. Mr. Fry pointed out that the three conceptual service areas presented were based upon the adopted Land Use Assumptions and the existing CRIP projects and were only suggested concepts and by changing the proposed service area boundaries, there would be an impact on the fees. A review of the three conceptual service areas were presented followed with Mr. Fry emphasizing that how the boundary lines are drawn will impact the fees charged. \_\_\_\_\_

B) Staff Presentations

i. Discounts for the 2030 Land Use Resource Management Plan Criteria - Dir. Tarum handed out a draft copy of the plan for the board's review as it relates to the consistency of the Impact Fee Ordinance and the 2030 Land Resource Management Plan. In discussing the 2030 Plan discounts, she explained that in order for developments to receive discounts in Part B, they must receive the discounts in Part A. Dir. Tarum explained that further discussion regarding this topic would occur at a future meeting.

ii. FY2005 Annual Report - Mr. Dickson reviewed four exhibits relating to the Annual Report which detailed impacts fees collected -- \$4,939,889.07 (Exh. A); CRIP projects with budget dollar amounts in FY05 (Exh. B); a map reflecting the location of projects and areas of fee collection (Exh. C) (Carlson leaves); and a copy of the CRIP map (Exh. D). **Morrison moved to approve and forward the FY2005 Annual Budget to the county board, seconded by Files. Vote: 4-0. Motion carried.**

C) Schedule for Impact Fee Program Update - Coffinbargar stated the impact fee program was on target. He plans to schedule the next meeting in late June.

VII. **OLD BUSINESS - None**

VIII. **NEW BUSINESS - None**

IX. **ADJOURNMENT**

The meeting was adjourned at 10:03 a.m. on motion by Morrison, seconded by Ludwiszewski. Motion passed unanimously.

\s\ Celeste K. Weilandt  
Celeste K. Weilandt, Recording Secretary