Proffers vs. Impact Fees: The Virginia Experience

National Impact Fee Roundtable
October 6, 2006
Moderator and Speakers

- Julie Herlands, *TischlerBise*
- Dr. Arthur C. Nelson, FAICP, *Virginia Tech*
- Yvonne Dawson, *TischlerBise*
- Sheila Minor, *Prince George County, VA*
In Today’s Session

- Comparison of Proffers and Impact Fees
  
  Dr. Arthur C. Nelson, FAICP

- Two Case Studies: Calculating School Cash Proffers for Prince George and Henrico Counties
  
  Yvonne Dawson
In Today’s Session

- Lessons From the Field: Policy, Political and Implementation Issues in Prince George County
  
  Sheila Minor

- Wrap-Up and Q & A
  
  Julie Herlands
Proffers & Impact Fees
Roses by any other name

Dr. Arthur C. Nelson, FAICP
Co-Director, Metropolitan Institute at Virginia Tech
Overview

● Proffers
  - “Voluntary” associated with rezonings
  - “Scheduled” associated usually with subdivisions

● Impact Fees
  - “Scheduled” across broad land use base
  - Usually enabled by statute, not always
    ● Florida does not have enabling legislation

● What’s the Difference?
  - Practically little difference
  - Differences mostly in process
Exactions Overview

- Impact mitigation objective
- Ordinance-based non-monetary exactions
  - Land for parks, drainage, school sites, r-o-w, etc.
- Ad-hoc exactions
  - Rezoning, conditional use permit triggers.
  - Getting developer to give just before crying uncle.
- Scheduled monetary exactions
  - Impact Fees.
  - Scheduled “proffers” (Fairfax County, VA example).
Impact Fees

- Last part of the planning process
  - Implements the CIP which implements the CIE which implements the Comprehensive Plan
- Clearly established fee schedule with formal administrative processes.
- Can be in addition to ad hoc exactions through rezoning/conditional use process.
- Always for capital facilities.
Proffers – Flavors

- Normally a planning and CIP connection is required but in practice less rigorous than in states with impact fee legislation (+ Florida).

- **Scheduled** proffers for subdivisions consistent with zoning in VA & WV allowed. May include monetary & nonmonetary exactions.

- **Nonscheduled**, ad hoc-based exactions for zone changes, conditional use permits (that may also include subdivisions). May include non-capital facilities such as street/sidewalk maintenance, affordable housing, etc.
Impact Fee Calculation Principles

- Dual Rational Nexus
  - Show that new development causes facility impact that is remedied by fees assessed on new development (“impact test” + “benefit test”)

- Impact Fee = (Impact Cost – New Development Revenues)

- Net impact cost apportioned proportionate to impact across land uses.
Scheduled Proffer Calculation Principles

- Yvonne Dawson to present.
Can You Have Both?

- Yes and No
- Most “Impact Fee” states allow proffer-like unscheduled monetary and nonmonetary exactions associated with rezoning and condition use permitting processes.
- Communities in “proffer” states often limit scheduled proffers to only residential subdivisions but allow unscheduled proffers as “voluntary” conditions of rezoning and condition use review.
Fairfax County, VA

- Statutory Impact Fee authorization for roads assessed on only residential subdivisions.
- Scheduled proffers established for all development requiring rezoning.
- Ad hoc proffers also used.
West Virginia Has Both

- **Proffers** apply only to subdivision plats.
- Developer offers “voluntary” written concessions.
- Concessions can include items on a capital improvement list, or items not on list.
- Can include cash, land dedication, or in-kind capital improvement.
- Applicable only if impact fees not in place – Non “growth” counties (less than 1% growth rate)
West Virginia Has Both

- **Impact Fees** apply to all land uses.
- Enabled only in “growth counties” (1%+).
- Fee schedule for water, sewer, drainage, schools, roads, park and recreation, and public safety facilities.
- Standard impact fee provisions → need, benefit, level of service, service areas, fees “net” of other revenues, credits, accounting, adoption process, refunds, etc.
Post-Kelo/Post Measure 37 World

- The anti-condemnation issue has become an anti-downzoning issue.
- Local governments may be advised to never up-zone.
  - This would enable a variety of ad hoc and scheduled proffer options.
  - In impact fee states could still have the impact fee schedule
- Planning not affected since implementation is done through rezoning. Plans can provide for exactions as needed to implement plans.
Two Virginia Case Studies: Calculating School Cash Proffers in Prince George and Henrico Counties

Yvonne Dawson
TischlerBise

TischlerBise
Fiscal, Economic & Planning Consultants
General Process

- Demographic Analysis
- Determine Capital Costs
- Evaluate Credits
- Determine Maximum Feasible Amounts
- Public Participation
- Decisions by Elected Officials
Methodologies

- Cost Recovery (past)
  - Oversized and unique facilities

- Incremental Expansion (present)
  - Formula-based approach documents level-of-service with both quantitative and qualitative measures

- Plan-Based (future)
  - Common for utilities but can also be used for other public facilities with non-impact fee funding
### Methodology Overview: Incremental Expansion

<table>
<thead>
<tr>
<th>Demand Units per Development Unit</th>
<th>Infrastructure Units per Demand Unit</th>
<th>Dollars per Infrastructure Unit</th>
</tr>
</thead>
</table>
Henrico County Cash Proffers

- Greater Richmond area
- Urbanizing County: 280,000 population; 46,000 school enrollment
- No cash proffer program in place
- Explored cash proffers to address school, library, parks and recreation and road capital needs
- Within each capital category, explored multiple methodologies -- calculated fee using incremental expansion method
## Henrico Student Generation Rates

<table>
<thead>
<tr>
<th></th>
<th>Elementary</th>
<th>Middle</th>
<th>High</th>
<th>All Grades</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single Family Detached</td>
<td>0.195</td>
<td>0.107</td>
<td>0.150</td>
<td>0.452</td>
</tr>
<tr>
<td>Single Family Attd/Twnhse</td>
<td>0.152</td>
<td>0.054</td>
<td>0.056</td>
<td>0.262</td>
</tr>
<tr>
<td>Multifamily/Other</td>
<td>0.121</td>
<td>0.067</td>
<td>0.056</td>
<td>0.244</td>
</tr>
<tr>
<td>All Hsg Types (blended)</td>
<td>0.171</td>
<td>0.092</td>
<td>0.117</td>
<td>0.380</td>
</tr>
</tbody>
</table>

Source: Cross tabulation by Tischler & Associates, Inc. using Census Bureau, Year 2000 5% Public Use Microdata Sample for Henrico County PUMA VA01300 and calibrated to HCPS enrollments.
## Henrico Schools
### Levels of Service

<table>
<thead>
<tr>
<th></th>
<th>Elementary</th>
<th>Middle</th>
<th>High</th>
</tr>
</thead>
<tbody>
<tr>
<td>Square Feet Per Student</td>
<td>121</td>
<td>127</td>
<td>158</td>
</tr>
<tr>
<td>Total Cost Per Square Foot</td>
<td>$208</td>
<td>$237</td>
<td>$213</td>
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<tr>
<td>Building Construction Cost Per Student</td>
<td>$25,138</td>
<td>$30,169</td>
<td>$33,643</td>
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<tr>
<td>Less State Constr. Contrib. Per Student (12%)</td>
<td>($3,017)</td>
<td>($3,620)</td>
<td>($4,037)</td>
</tr>
<tr>
<td>Local Building Construction Cost Per Student</td>
<td>$22,121</td>
<td>$26,549</td>
<td>$29,606</td>
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<tr>
<td>Acreage Per Student</td>
<td>0.037</td>
<td>0.036</td>
<td>0.028</td>
</tr>
<tr>
<td>Land Cost Per Acre</td>
<td>$75,000</td>
<td>$75,000</td>
<td>$75,000</td>
</tr>
<tr>
<td>Land Cost Per Student</td>
<td>$2,747</td>
<td>$2,684</td>
<td>$2,111</td>
</tr>
<tr>
<td>Total Local Capital Cost Per Student</td>
<td>$24,868</td>
<td>$29,233</td>
<td>$31,717</td>
</tr>
<tr>
<td>Principal Payment Credit Per Student</td>
<td>($2,106)</td>
<td>($2,106)</td>
<td>($2,106)</td>
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<tr>
<td>Net Capital Cost Per Student</td>
<td>$22,762</td>
<td>$27,126</td>
<td>$29,610</td>
</tr>
</tbody>
</table>
### Maximum Supportable Cash Proffer Amounts

<table>
<thead>
<tr>
<th>Cash Proffer Per Hsg Unit</th>
<th>Elementary</th>
<th>Middle</th>
<th>High</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single Family Detached</td>
<td>$4,429</td>
<td>$2,906</td>
<td>$4,447</td>
<td>$11,782</td>
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<tr>
<td>Single Family Attd/Twnhse</td>
<td>$3,453</td>
<td>$1,475</td>
<td>$1,668</td>
<td>$6,596</td>
</tr>
<tr>
<td>Multifamily/Other Housing</td>
<td>$2,747</td>
<td>$1,822</td>
<td>$1,648</td>
<td>$6,217</td>
</tr>
</tbody>
</table>
Prince George Cash Proffers

- Greater Richmond area
- High Growth County: 36,900 population; 6,000 school enrollment
- Updated cash proffers to address current school, library, parks and recreation, general government, fire and public safety capital needs
Prince George School Cash Proffers

- PG County Schools developed a Capital Improvement Plan in 2005 identifying current school capacity and projected facility needs.
- CIP identified the need for additional elementary and high schools to meet projected enrollment.
- Within each school subcategory, explored multiple methodologies.
School Proffer Components

Schools
- Elementary Schools – Incremental Expansion
- Middle/Junior High – Cost Recovery
- High School – Incremental Expansion
- Land – Incremental Expansion

Support Facilities
- School Board Office – Plan-Based
- Bus Garage – Plan-Based

Other
Buses & Other School Vehicles – Incremental Expansion
## Prince George Student Generation Rates

Source: cross-tabulation by TischlerBise using Census Bureau, Year 2000 5% Public Use Microdata Sample for Prince George Public Use Microdata Area (PUMA) VA 02300 and calibrated to Prince George County School enrollment.

<table>
<thead>
<tr>
<th>INPUT VARIABLES</th>
<th>Type of School</th>
<th>TOTAL</th>
</tr>
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<tbody>
<tr>
<td><strong>Public School Students Per Housing Unit (2005)</strong></td>
<td>Elementary</td>
<td>Junior/Middle</td>
</tr>
<tr>
<td>Single Family Detached</td>
<td>0.202</td>
<td>0.184</td>
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<tr>
<td>All Other Housing</td>
<td>0.250</td>
<td>0.136</td>
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</table>
## Prince George Schools Levels of Service

### Current Level Of Service Standards

<table>
<thead>
<tr>
<th></th>
<th>Elementary</th>
<th>Junior/Middle</th>
<th>High</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>School Facilities</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Square Feet Per Student</td>
<td>99</td>
<td>113</td>
<td>154</td>
</tr>
<tr>
<td>Total Cost Per Square Foot</td>
<td>$179</td>
<td>$113</td>
<td>$179</td>
</tr>
<tr>
<td>School Facility Construction Cost Per Student</td>
<td>$17,800</td>
<td>$12,740</td>
<td>$27,636</td>
</tr>
<tr>
<td>Acreage Per Student</td>
<td>0.033</td>
<td>0.040</td>
<td>0.037</td>
</tr>
<tr>
<td>Land Cost Per Acre</td>
<td>$25,000</td>
<td>$25,000</td>
<td>$25,000</td>
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<tr>
<td>Land Cost Per Student</td>
<td>$813</td>
<td>$1,010</td>
<td>$930</td>
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<tr>
<td><strong>Planned School Board/Admin Facility</strong></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Square Feet Per Student</td>
<td>3.00</td>
<td>3.00</td>
<td>3.00</td>
</tr>
<tr>
<td>Total Cost Per Square Foot</td>
<td>$131</td>
<td>$131</td>
<td>$131</td>
</tr>
<tr>
<td>Admin Facility Construction Cost Per Student</td>
<td>$393</td>
<td>$393</td>
<td>$393</td>
</tr>
<tr>
<td><strong>Planned Bus Garage</strong></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Square Feet Per Student</td>
<td>1.98</td>
<td>1.98</td>
<td>1.98</td>
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<tr>
<td>Total Cost Per Square Foot</td>
<td>$210</td>
<td>$210</td>
<td>$210</td>
</tr>
<tr>
<td>Bus Garage Construction Cost Per Student</td>
<td>$416</td>
<td>$416</td>
<td>$416</td>
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<tr>
<td><strong>Bus and Other School Vehicles</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Vehicles Per Student</td>
<td>0.02</td>
<td>0.02</td>
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<tr>
<td>Average Cost Per Vehicle</td>
<td>$47,683</td>
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<tr>
<td>Bus and Other School Vehicle Cost Per Student</td>
<td>$1,118</td>
<td>$1,118</td>
<td>$1,118</td>
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<tr>
<td><strong>Cash Proffer Study</strong></td>
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<tr>
<td>Cash Proffer Study Cost Per Student</td>
<td>$51</td>
<td>$51</td>
<td>$51</td>
</tr>
<tr>
<td>Gross Capital Cost Per Student</td>
<td>$20,591</td>
<td>$15,727</td>
<td>$30,544</td>
</tr>
<tr>
<td>Total Principal Payment Credit Per Student</td>
<td>($2,610)</td>
<td>($2,610)</td>
<td>($2,610)</td>
</tr>
<tr>
<td>Net Capital Cost Per Student</td>
<td>$17,981</td>
<td>$13,117</td>
<td>$27,934</td>
</tr>
</tbody>
</table>
## Prince George School
### Maximum Cash Proffer

<table>
<thead>
<tr>
<th>MAXIMUM SUPPORTABLE CASH PROFFER AMOUNTS</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Cash Proffer Per Hsg Unit</strong></td>
</tr>
<tr>
<td>Single Family Detached</td>
</tr>
<tr>
<td>All Other Housing</td>
</tr>
</tbody>
</table>
Lessons From the Field: Policy, Political and Implementation Issues in Prince George County, VA

Sheila Minor
Finance Director
Prince George County, VA
Prince George County, VA

- Population: 36,900
- Heavily impacted by Ft. Lee Army Base
  - BRAC up
- High Growth Community
  - 20.7% change from 1990 – 2000
  - 10.9% change from 2000 – 2005
PG Demographics

Urban crescent
+
30 – 60 minute commuting time
+
Transportation corridors
+
Excellent school system

Rapid suburbanization
Original Proffers

- Decision to implement proffers in 2002
- Created Capital Improvements Plan
- Hired auditing firm to calculate proffers
- No indexing
- No split of residential vs. non-residential
- No formal policy
- Maximum accepted cash proffer: $3,544
Context of Change

- Change to proactive management philosophy
- Emphasis on long range planning
  - Financial policies
  - Capital Improvements Process & Plan
  - Update of Comprehensive Plan
  - Industrial Park Master Plan
- Recognition of facility needs & demand for services outpacing resources
CIP Committee – Fall 2003

- One member each:
  - Board of Supervisors
  - School Board
  - Planning Commission (chair)
  - Volunteer Fire Chiefs Committee

- Three citizen members

Written report recommending recalculation & indexing of cash proffers
Policy Issues: Overview

- Selecting Consultant
- Selecting Categories
- Indexing
- Residential vs. Non-Residential
- Legal Constraints
Policy Issues

Selecting Consultant

- Recommendation to update proffers - Fall 2003
- Budgeting for consultant - Spring 2004
- Procurement process - Fall 2004
- Re-budgeting for consultant - Spring 2005
- Procurement process - Fall 2005
Policy Issues

Selecting Categories

- Schools
- Public Safety
- Fire and EMS
- Recreation
- General Government
- Libraries (Regional System)
Policy Issues

Indexing
- YES- Marshall & Swift
- Annually (standardized language)

Residential vs. Non-Residential
- Political resistance to requesting proffers on “desirable” commercial development

Legal Constraints
- Know how state law has changed
- Disposition of proffers
Political Issues: Overview

- Political Environment
- Identification of Stakeholders
- Public Education
- Timing
- Media
Political Environment

- Progressive change
- Desire for growth to pay for growth
- Increasing real estate market values

Identification of Stakeholders
- Developers
- Home builders
- Realtors
Political Issues

- Public Education, Timing, Media
  - Spring 2006- How soon can we get this done?
  - Presentation to Planning Commission
  - Presentation to Board of Supervisors
  - Public Hearings
  - Adoption on June 6, 2006

- Maximum cash proffer updated to $12,585 for single family detached (from $3,544)
Implementation Issues: Overview

- Ownership?
- Tracking
- Standardization
Implementation Issues

- Ownership
  - Planning
  - Real Estate Assessments
  - Building Official
  - Finance

- Tracking
  - To Be Continued....
Implementation Issues

- Standardization
  - Encourage standard application of proffers
  - Trouble spots:
    - proffers after X number of lots
    - indexing based on approval date
    - other creative proffer arrangements
    - reversion issues (other than state law)
Lessons Learned

Cash Proffer Implementation has three parts:

1. Calculation
2. Policy
3. Implementation
Wrap-Up

- Significant similarities between impact fees and cash proffers
- More and more communities are moving toward scheduled cash proffers
- Differences center around implementation
- Cash proffers only partially cover costs of growth . . . but better than nothing
Wrap-Up

- Q & A
- Thank you