



Memorandum

TO: Barry Buchanan, County Council Chair

FROM: Kelvin Barton, Planning Commission Chair

DATE: October 28, 2020

SUBJECT: Proposals from Whatcom County Planning Commission

The following two motions passed at the Planning Commission meeting held on October 22, 2020. Council staff recommended assigning discussion of these proposals to the Council Planning and Development Committee, and we therefore submit these items for consideration of the Council.

Please have Council staff coordinate with PDS on scheduling a discussion of these motions at a future P&D Committee time amenable to the Council. We would request that meeting invitations be sent to all Planning Commissioners when such discussions are scheduled. Audio recording of the PC discussion of these motions can be found [here](#).

1) Public Participation Proposal Motion

The Planning Commission urges the Whatcom County Council to create a citizen advisory body to address the issue of public participation in our local government and recommend improvements. Here is a partial list of topics we hope this advisory body would address:

- *Effectiveness of traditional methods of "notice" in light of the changing ways individual's access news and information.*
- *Needs and opportunities for public education on the issues addressed by local government so that citizens can be more effective in their participation.*
- *The use of remote meeting technologies to increase ease of participation beyond the current public health crisis.*
- *The mechanics of navigating and accessing policy and legislation on the county website.*
- *The public comment process and accessibility.*
- *Evaluation of all public participation processes and procedures through an equity lens.*

The motion carried with the following vote: Ayes-Bartel, Barton, Deshmane, Hansen, Jackson, Lund, Maberry, McClendon, Mocer; (Ayes 9; Nays-0; Abstain-0)

2) Impact Fee Proposal Motion

To provide better equity for county tax payers and to reduce a financial incentive to rural development: The Planning Commission recommends that the County consider implementing an impact fee ordinance pursuant to the full extent of RCW 82.02.050-.110

The motion carried with the following vote: Ayes-Bartel, Deshmane, Hansen, Lund, McClendon Nays- Barton, Jackson, Maberry, Mocer; (Ayes-5; Nays-4; Abstain-0)

Attachments:

Impact Fee Discussion Memorandum 10/12/20

WHATCOM COUNTY

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Mark Personius
Director

Memorandum

October 21, 2020

TO: The Whatcom County Planning Commission
FROM: Matt Aamot, Senior Planner
THROUGH: Mark Personius, Director
RE: Impact Fee Discussion

The Planning Commission indicated that they wanted to discuss impact fees at the October 22, 2020 meeting. The Growth Management Act (GMA) authorizes counties and cities to impose impact fees on development, if certain conditions are met (RCW 82.02.050 - .110). State law also authorizes other methods of collecting development mitigation fees.

I. Development Mitigation Fees

A. How can mitigation fees be imposed on development?

There are several methods local jurisdictions may use to require mitigation fees from development:

- Impact fees
- Voluntary Agreements
- SEPA conditions (mitigation)

Whatcom County has never adopted impact fees. Voluntary agreements and SEPA mitigation have been used, on a case-by-case basis, in the context of the permitting process.

B. What's the difference between impact fees and other mitigation fees?

The primary differences between impact fees, voluntary agreements, and SEPA conditions are shown in the chart below.

	GMA Impact Fees	Voluntary Agreements	SEPA Conditions
1. <u>Authority</u>	RCW 82.02.050 - .110	RCW 82.02.020	RCW 43.21C.060 and .065 WAC 197-11-350 and 768 WCC 16.08.160
2. <u>Local Ordinance:</u> Does collection of fees require a County and/or City Ordinance?	Yes RCW 82.02.050(1)(b) and .060	No	No
3. <u>Facilities in CFP:</u> Can fees only be used for capital facilities listed in the County or City comp plan?	Yes RCW 82.02.050(4) and .070(2)	No But fees must be used for capital improvements agreed upon by the local government entity and the developer.	Yes RCW 43.21C.060
4. <u>Imposed on all Development:</u> Can fees be collected on all developments that create additional demand and need for public facilities?	Yes RCW 82.02.050(2) and .090(1)	Probably (under state law) However, pursuant to WCC 20.80.212, a concurrency letter is only required for subdivisions (typically 5 or more lots), commercial developments, and conditional use permits.	No Cannot collect fees for development that is exempt from SEPA Review (e.g. a new house on existing lot).
5. <u>Time Limits:</u> Time limits for expending fees?	10 years RCW 82.02.070(3)(a) and .080(1)	5 years RCW 82.02.020(2)	None
6. <u>Fees Only:</u> Can fees cover the full cost of public facilities?	No RCW 82.02.050(2)	Statute does not specify	Statute does not specify
7. <u>Compliance with GMA:</u> Can a jurisdiction collect fees if out of compliance with GMA?	No RCW 82.02.050(5)	Yes	Yes

II. Impact Fees

The remainder of this memo will address GMA “impact fees” and will not address voluntary agreements or SEPA conditions.

A. What’s the purpose of impact fees?

Pursuant to RCW 82.02.050(1), the intent of the state legislature in authorizing local governments to adopt impact fees is:

To ensure that adequate facilities are available to serve new growth and development;

To promote orderly growth and development by establishing standards by which counties, cities, and towns may require, by ordinance, that new growth and development pay a proportionate share of the cost of new facilities needed to serve new growth and development; and

To ensure that impact fees are imposed through established procedures and criteria so that specific developments do not pay arbitrary fees or duplicative fees for the same impact.

B. Are local governments required to adopt impact fees?

Local governments are authorized to adopt impact fees but are not required to adopt such fees.

C. What can impact fees be used for?

Pursuant to RCW 82.02.050(2), impact fees can be used for “public facilities.” RCW 82.02.090(7) defines public facilities as:

- Public streets and roads;
- Publicly owned parks, open space, and recreation facilities;
- School facilities; and
- Fire protection facilities.

D. Can impact fees be used for road maintenance?

The MRSC website states “. . . Since impact fees are restricted to capital facilities, they cannot be used to fund transportation studies or operating and maintenance costs. . .”

E. How are impact fees adopted?

Pursuant to RCW 82.02.060, impact fees can only be imposed through a locally adopted ordinance (in our case, by the Whatcom County Council).

F. Are there other impact fee requirements?

Impact fees can only be spent on public facilities that are in the capital facilities element of the Comprehensive Plan (RCW 82.02.050(5)). Additionally, impact fees

cannot exceed the development's "proportionate share" of public facility improvement costs (RCW 82.02.050(4)).

The impact fee ordinance must include a schedule of impact fees for each type of development that is subject to impact fees, specifying the amount of the impact fee to be imposed. The schedule must be based upon a formula or other method of calculating such impact fees (RCW 82.02.060(1)).

G. What cities in Whatcom County have impact fees?

Staff contacted the city planners in October 2020 to determine the impact fees that are collected by each city. Their responses are shown in the chart below.

City	Streets/Roads	Parks/Recreation	Schools	Fire Protection
Bellingham	✓	✓	✓	
Blaine	✓	✓		
Everson	✓ (in part of the city)	✓		
Ferndale	✓	✓	✓	
Lynden	✓	✓		✓
Nooksack	✓ (in part of the city)			
Sumas				
TOTAL	6	5	2	1

H. What other counties in northwest Washington have impact fees?

The following counties in our area impose impact fees:

- [Skagit](#): School
- [Snohomish](#): Traffic, park, and school
- Island: None
- San Juan: None

I. How much are fees and development costs in other jurisdictions?

The City of Bellingham issued a memo entitled "[2014 Comparative Fees and Costs for a New Single Family Residence](#)" (February 20, 2015). This memo compared impact fee and other development fees and costs for Bellingham, Blaine, Ferndale, Lynden, and Whatcom County. At that time, total impact fees for these cities ranged from \$1,770 to \$8,569 for a generic 2,500 square foot house with a 400 square foot garage (p. 7). As previously mentioned, Whatcom County has never adopted impact fees. The "Low Range (Baseline) Fee and Development Costs" analysis, with permit fees, water costs, and sewage costs (Table 1, p. 7) calculated total fees/costs as follows:

- Blaine: \$14,824
- Whatcom County: \$17,537
- Lynden: \$ 17,818
- Ferndale: \$21,905
- Bellingham: \$24,705.

However, the memo indicates that water and on-site sewage system costs in unincorporated areas can vary widely, bringing up overall development costs in the County (pp. 4-5).

The City of Bellingham prepared a [*Comparison of 2019-2020 TIF Base Rates in 74 Cities and 5 Counties in Western Washington*](#) (November 2019) and found:

- The average transportation impact fee (TIF) for the 74 cities and 5 counties surveyed was \$4,363 per p.m. peak hour trip.
- Transportation impact fees for the 5 counties surveyed ranged from \$700 to \$4,479 per p.m. peak hour trip. The counties are: Clark, Kitsap, Pierce, Snohomish, and Thurston.
- Bellingham's transportation impact fee is \$2,025 per p.m. peak hour trip in 2020. Because different development types generate different amounts of peak hour trips, the impact fees vary by land use. For example, Bellingham's TIF is \$2,907 for a single family house and ranges between \$1,116 and \$1,644 per multifamily dwelling unit (depending on the overall size of the development).

J. Would impact fees affect housing prices?

The State Department of Commerce issued a document entitled [*Housing Memorandum: Issues Affecting Housing Availability and Affordability*](#) in June 2019. This document includes a section called "Impact Fees: Research and Consensus" that generally addresses the how impact fees affect housing costs (pp. 64-65). This section states that "Impact fees verifiably lead to higher housing costs" but also indicates that "Increases in housing cost usually are due to households valuing housing more with new infrastructure than with older infrastructure" (p. 65).

K. Can low-income housing projects be exempted from impact fees?

RCW 82.02.060(2) and (3) provide the option for local governments to exempt low-income housing projects from part or all of the impact fees.

L. Would a consultant be needed to develop an impact fee ordinance?

Because of the complexity and time-consuming nature of developing an impact fee ordinance, and related information, the County would likely request consulting services to assist with the project.

M. Informational Resources

- MRSC [website](#) relating to impact fees
- City of Bellingham [website](#) relating to Transportation Impact Fees