spotlight

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APFOs Research Fatally Flawed

One-sided analysis is used to determine "voluntary mitigation" fees

SUMMARY: **Counties across the state are adopting Adequate Public Facilities Ordinances (APFOs) that require homebuilders to pay fees of up to $14,953 for each new home built.[1] County commissioners favoring these ordinances argue that they allow public services to keep pace with population growth. Opponents believe that APFOs actually place an unfair burden on homebuilders and homebuyers because APFOs can significantly increase home prices. Regardless of this debate, recent studies used to justify the use of APFOs to finance the construction of public facilities are fatally flawed. Outside consultants and county personnel have provided county commissioners with studies that calculate only the costs of new growth, while ignoring the increased county revenues created by each new home built. Some studies show that when both costs and revenues are considered, the revenues are greater than the costs. County commissioners should demand true cost/benefit analyses when considering APFOs.**

Conmmonly referred to as APFOs, Adequate Public Facilities Ordinances are a means of raising revenues to provide for new public infrastructure, such as schools, roads and parks, needed by new residents.[2] These ordinances raise revenues by implementing the following techniques:

- APFOs require that homebuilders obtain a special permit, which may be denied by the county Planning Board or Board of Commissioners because adequate public facilities are not in place to accommodate new residents.
- APFOs establish an amount needed to pay for the projected costs of the public facilities needed for each new home.
- If the developer wants a building permit, he must pay a "voluntary" fee to cover the estimated costs of public services. Alternatively, he may dedicate land toward new infrastructure or delay construction.[3]

Whereas state statute does give counties the authority to zone areas for the welfare of the community, it does not give all counties direct authority to charge growth-related impact fees.[4] To circumvent this legal barrier, some counties give the fee a vague title, such as "voluntary mitigation payment" or

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"advancement of capacity."[5] This legal subterfuge makes APFOs subject to legal challenges.

APFO Fee Amounts and Determination Methods Across Counties

County	*APFO Study by Tischler & Associates*	*APFO Study by County Personnel*	*Amount of Fee Per Lot*
Union		✔	$14,953
Currituck	✔		$12,171
Camden	✔		$10,249
Cabarrus	✔		$8,000
Franklin		✔	$3,263
Stanly		✔	$1,500

Source: Fee amounts are taken from each county's school APFO. County planners at Union, Cabarrus, and Stanly provided the amounts, as they are not explicit in the APFOs for those counties. The given fees apply to single-family detached units.

APFOs for School Construction

Over the past decade, numerous North Carolina counties have enacted APFOs for various public services, including roads, parks, and utilities. A recent trend is to charge fees specifically for public school buildings and other school capital infrastructure. Currently, the following counties have APFOs that mandate that homebuilders pay "voluntary" public-school construction fees: Currituck, Franklin, Camden, Cabarrus, Stanley, and Union.[6] Several cities, including Cary, have also implemented such "voluntary" fees apart from their county.

Rather than perform a comprehensive, cost/benefit economic analysis of the effects of new development, these North Carolina counties focused solely on the fiscal burden caused by new residents buying new homes, and this fact is reflected in their APFOs studies. Amazingly, in all of the school APFOs studies in the state, the benefit of additional tax revenues generated by new residents buying new homes is completely ignored. Instead, studies estimate public school "mitigation" fees based only on the costs of school capital improvements needed to accommodate newcomers.

Several of the counties employed the same private consulting firm — Tischler & Associates of Bethesda, Maryland — to perform the school APFO calculations.[7] This consultant used identical methodology in each study, a methodology that involves estimating the number of elementary, middle, and high school students per housing unit within the county, and multiplying these estimates by the approximate capital cost per student of each school type. Adding the results together produces a weighted average that represents the total school construction costs per new housing unit.

While this analysis may be valid in estimating school capital costs per new student, it is incomplete without considering other factors, such as increased property and sales tax revenues for the county and economic growth in the county generated by new residents. This is especially true when tax deferred farmland is converted to homes paying property taxes. Not only does that farmland produce higher property taxes in the future, the conversion requires a payment of property taxes for the past five years resulting in an immediate infusion of revenues into the county coffers. Unfortunately, the Tischler studies completely ignore these increased county revenues created by community growth.

Despite the failures of the Tischler reports, several counties have adopted the Tischler methodology when they conduct their own APFO studies. Currituck and Camden county use the fees recommended in the Tischler report for their "advancement of capacity" payments.[8] Cabarrus County references Tischler & Associates, although its fees are somewhat lower than the ones recommended by the group.[9] In counties that performed their own analysis, only expected school capacity problems are considered. None of these studies discusses the increase in tax revenues generated by new home construction and homeowners. The table above summarizes the fee amounts and determination methods across counties.

APFOs are also based on the faulty assumption that all new housing is purchased by people moving into the county. In fact, new home construction not only attracts new residents from outside the county, but it also attracts existing residents who simply choose to switch neighborhoods. Consider the case of a young married couple without children living in an apartment in Camden County and deciding to buy a new home in another part of the county. They would be required to pay a higher home price because of Camden County's $10,249 APFO "advancement of capacity" fee, even though they are already county residents and have no children in county schools. Alternately, consider another couple moving from one home in Camden County to another, and this couple does have children in the Camden County schools. When this family moves to another part of the county, they place no increased demand on the school system, but they are penalized for buying in another area by having to pay a higher home price, part of which goes to new school construction. Such factors are simply ignored by county policymakers.

Counties Must Conduct Comprehensive Cost/Benefit Analysis

County commissioners should perform a true cost/benefit analysis when considering implementation of an APFO. While it is true that new residents in a community impose additional public-service costs, they also pay property and sales taxes. New development leads to increased property values, which translate into higher property-tax revenues for the county. Public-school "voluntary mitigation" fees drive up the price of homes even further because the fee is usually passed to homebuyers, which also increases county tax revenues.[10]

It is imperative to consider these increased revenues, as well as the increased costs, created by residential development. When a county estimates the additional public service costs associated with new development, it should estimate increased property-tax revenues as well. Counties also receive a portion of sales taxes; other things equal, an increase in the number of residents is accompanied by an increase in county sales-tax revenue. A "voluntary mitigation fee" should be implemented only in the instance that a new development's projected public-service costs exceed its projected new revenues for the city or county.[11]

A Comprehensive Study of Community Growth

Rigorous cost/benefit analysis shows that residential growth is fiscally beneficial rather than costly. In 2005, Professor Michael Walden, the William Neal Reynolds Distinguished Professor of Economics at North Carolina State University, examined the economic impact of constructing 100 new single-family homes and 100 multi-family homes in the Triangle area.[12] He included in his study costs associated with many public services, including schools. He also included something Tischler & Associates and other APF studies failed to — additional tax revenues created by the new residents, including property taxes, local sales taxes, utility excise taxes, inspection permit fees, and motor vehicle taxes. Walden concluded that benefits in the form of local city and county tax revenues and economic growth outweighed growth-associated costs by nearly $77,000 per year over a ten-year period.[13]

Conclusion

Nowhere in the APFO studies, or in any of the county school APFOs, are the positive impacts of community growth even acknowledged. Such one-sided analysis treats new residents as a burden to be borne, rather than as contributors to a community. It is unfair to force developers and new residents to pay "voluntary" fees without first considering growth-related public revenues as well as public service costs. City and county residents deserve a comprehensive and economically sound approach to APFOs.

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End Notes

1. Union County's fee for single-family homes is $14,953, as given by the County Planning Department.
2. Richard Drucker, "Adequate Public Facility Criteria: Linking Growth to School Capacity," *School Law Bulletin*, Winter 2003, p. 1.
3. Dustin C. Read, Ph.D. candidate in Public Policy, Center for Real Estate at the University of North Carolina, Charlotte, "Financing the Construction of Public Schools in North Carolina with Impact Fees and APFOs," presentation, p. 2.
4. Dr. Michael Sanera and Guillermo Peña, "Raleigh's Flawed Impact Fee: Incomplete Research Means Proposal Is Broken from the Start," John Locke Foundation *Spotlight* No. 284, www.johnlocke.org/spotlights/display_story.html?id=131. This report examined the methods used to calculate impact fees in Raleigh, and found that the methods used only calculated public-service costs, not increased revenues.
5. Counties may appeal to several sections of Chapter 153A of the North Carolina General Statutes, which grant general authority for zoning and subdivision regulation.
6. Only Chatham County and Orange County/Chapel Hill–Carrboro have permission from the state to charge public service impact fees. See Chapter 460, House Bill 917, 1987 Session Laws, www.ncleg.net/EnactedLegislation/SessionLaws/HTML/1987-1988/SL1987-460.html.
7. The consulting group has changed its name to Tischler Bise since performing several of the studies.
8. Camden County APFO, p.1; Currituck County APFO, p. 9.
9. The county's fee is approximately $8,000, which is lower than the $12,425 recommended by Tischler & Associates.
10. Read, p. 8.
11. Proper analysis would also include present-value calculation for added costs and revenues over time.
12. Michael Walden, "Economic Impacts of Construction of Owner Occupied Residential Housing in the Triangle, North Carolina: A Study Prepared for the Homebuilders Association of Raleigh–Wake County," North Carolina State University, January 1, 2005; available for download at www.heartland.org/Article.cfm?artId=20157.
13. Walden, p. 3.