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The Builders

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March 4, 2003

To: Mark Manendo, Chairman
Assembly Committee on Government Affairs
From: Michael Lynch
Builders Association of Northern Nevada

Re: AB196 Amendment Proposal

Mr. Chairman:

The following amendment offered on behalf of the members of BANN is meant to serve as clarification to local governments seeking to collect construction taxes for parks in addition to impact fees to parks currently authorized in NRS 278B.

As an observer of the debate involving the passage of AB458 during the 2001 Legislative Session, I recognized and appreciated the intent of the language in the bill that became NRS 278B.240 providing that a property owner that would be required to pay an impact fee for parks would receive a credit towards the fee for any taxes paid for parks under NRS 278.4983. The testimony provided during the hearing for AB458 on April 6, 2001 at a meeting of the Assembly Committee on Government Affairs reflects the intent to allow local governments to use both funding sources, provided that there would be credit given toward the impact fee for anyone required to pay a residential construction tax for parks.

It is clear that the Legislature had no intent of forcing one homeowner to bear the cost of a new "regional" park without crediting them for their contribution towards a new "neighborhood" park within the same "service area."

The suggested language I have provided is meant to clarify this "credit" earned by new home buyers paying a residential construction tax for parks towards any impact fee for parks within the same service area, whether these parks are less than 25 acres or up to 50 acres in size.

Respectfully,

Michael Lynch
Builders Association of Northern Nevada

Attached: Proposed Amendment to AB196
Relevant Testimony, April 6, 2001 hearing on AB458
Park District/Impact Fee Service Area Example



BUILDERS ASSOCIATION OF NORTHERN NEVADA



ASSEMBLY GOVERNMENT AFFAIRS 61-11
DATE: 3/4/03 ROOM: 3143 EXHIBIT G
SUBMITTED BY: Michael Lynch

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Sec. 8. NRS 278B.240 is hereby amended to read as follows:
278B.240 1. If an owner is required by a local government, as a condition of the approval of the development, to construct or dedicate, or both, a portion of the off-site facilities for which impact fees other than for a park project are imposed, the off-site facilities must be credited against those impact fees.

2. If a school district is required by a local government to construct or dedicate, or both, a portion of the off-site facilities for which impact fees are imposed, the local government shall, upon the request of the school district, reimburse or enter into an agreement to reimburse the school district for the cost of the off-site facilities constructed or dedicated, or both, minus the cost of the off-site facilities immediately adjacent to or providing connection to the school development which would be required by local ordinance in the absence of an ordinance authorizing impact fees.

3. If an owner is required by a local government to:

(a) Pay a ~~[residential]~~ construction tax pursuant to NRS 278.4983 **in a “park district” which overlaps a “service area” collecting an impact fee for parks pursuant to NRS.278B, the construction taxes collected for parks must be credited against the impact fees collected for parks by the local government;**

(b) Dedicate land pursuant to NRS 278.4979 , 278.498 and 278.4981 or otherwise dedicate or improve land, or both, for use as a park; or

(c) Construct or dedicate a portion of the off-site facilities for which impact fees for a park project are imposed, the owner is entitled to a credit against the impact fee imposed for the park project for the amount of the ~~[residential]~~ construction tax paid, the fair market value of the land dedicated, the cost of any

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON GOVERNMENT AFFAIRS**

**Seventy-First Session
April 6, 2001**

The Committee on Government Affairs was called to order at 8:12 a.m., on Friday, April 6, 2001. Chairman Douglas Bache presided in Room 3143 of the Legislative Building, Carson City, Nevada. Exhibit A is the Agenda. Exhibit B is the Guest List. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Mr.	Douglas Bache, Chairman
Mr.	John J. Lee, Vice Chairman
Ms.	Merle Berman
Mr.	David Brown
Mrs.	Vivian Freeman
Mr.	David Humke
Mr.	Harry Mortenson
Mr.	Roy Neighbors
Ms.	Bonnie Parnell
Mr.	Bob Price
Mrs.	Debbie Smith
Ms.	Kathy Von Tobel

COMMITTEE MEMBERS EXCUSED:

Mrs.	Dawn Gibbons
Mr.	Wendell Williams

GUEST LEGISLATORS PRESENT:

Assemblyman David Parks, District 41
Assemblyman Dennis Nolan, District 13

STAFF MEMBERS PRESENT:

Eileen O'Grady, Committee Counsel
Dave Ziegler, Committee Policy Analyst
Virginia Letts, Committee Secretary

OTHERS PRESENT:

Irene Porter, Executive Director, Southern Nevada Home Builders Association
John Gwaltney, Washoe Vista Homeowners Association
Maddy Shipman, Washoe County
Dan Musgrove, City of Las Vegas
Marvin Leavitt, City of Las Vegas
Kimberly McDonald, City of North Las Vegas
Stan Olsen, Las Vegas Metropolitan Police and Nevada Sheriffs and Chiefs Association
Mary Walker, Carson City, Douglas and Lyon Counties
Steve Kastens, Carson City and the Nevada Recreation and Park Society
Pat Coward, Nevada Association of Realtors
Stephanie Garcia, City of Henderson

Assembly Bill 458: Authorizes local governments to impose impact fees on new developments to finance fire station projects, park projects and police station projects. (BDR 22-1000)

Assemblyman David Parks, Assembly District 41, testified the bill resulted from a request by the Southern Nevada Home Builders Association. He introduced Irene Porter who would address issues in the bill.

Irene Porter, Executive Director of Southern Nevada Home Builders Association, stated A.B. 458 added three elements of allowable uses to *Nevada Revised Statutes* on impact fee law. Those elements would be park projects, fire stations and police stations. The legislation would be enabling and not mandatory, with an impact fee enacted by each local government. The only places impact fee laws were used was in Reno and Washoe County on roads, and it was her understanding they had been highly successful. Current impact fee laws could be applied whether it was a street project or a park project. She had distributed a review of the current impact fee laws (Exhibit C). The law required land use assumptions by service area and set forth-public hearing requirements. Fees collected must be deposited in an interest-bearing account, clearly identifying the category of capital improvement. The law set forth standards for maximum fees and those items that were prohibited. It also provided for periodic review of capital improvement plans, public hearings and entitlement to services, use of facilities, established notice and liability to the seller, and set time limitations for judicial review of final action.

Mr. Lee questioned the use of fees for renovations of some of the older parks. Ms. Porter responded over the years there had been many court cases involving impact fee laws, which set up the nexus of people paying the fee and the building of the facility. There was a chance of violating court decisions when trying to use impact fees in older neighborhoods. Those areas developed before the early

1970s did not pay for park development except from property tax dollars. There were no park taxes or impact fees, so it would be unfair to use money from those homeowners to establish parks and services in their neighborhoods. Older neighborhoods could obtain grants or use property tax to improve older parks.

Ms. Porter distributed (Exhibit D) indicating those amendments had been worked out with the Southern Nevada Home Builders Association and local governments. Language regarding "park project" for the purposes of impact fees increased the size of the park to 50 acres and allowed additional types of facilities and equipment to be placed in the parks. She said she had met with Washoe County and they would like to have small meeting facilities up to 3,000 square feet included and she had no problem adding that to the list for which impact fees could be used. **Added language was proposed in Section 5, so there could be a crediting process against impact fees and would alleviate problems with communities not wanting to use impact fees, because they would have to suspend using park taxes.**

Mr. Mortenson questioned how much could be collected under the law. Ms. Porter replied under impact fee law there could not be a cap on those fees and they were entirely different from a park tax. The park tax was a pure tax and could be capped. Under impact fee law there was a land use assumption, which divided out the cost for each land use within a service area.

Mr. Mortenson stated the residential construction tax was mandatory with fixed sums going to parks, and questioned if the impact fee was optional. Ms. Porter responded residential construction tax was also optional, enabling local governments to impose either mandatory land dedication or residential construction taxes. In southern Nevada all local governments had enacted ordinances to impose park taxes with money funding construction of parks and park facilities. The impact fee law enabled local governments a choice of implementing fees and a laundry list of how fees could be used. **If impact fees were used as well as taxes, then the fee had to be applied to the park tax with those funds credited against that park tax, so residents were not charged twice.**

Mr. Mortenson asked if impact fees were discretionary per project. Ms. Porter indicated each city or county could enact their own ordinance and develop their own fees, capital improvement programs, and their own land use assumptions. Within a service area that was developed, all single family residential would pay equal amounts, while commercial would pay based on a formula on a sliding scale.

Mrs. Freeman interjected she was pleased to see the proposed legislation and felt it was needed. She wondered what the northern homebuilders thought of the bill. Ms. Porter replied she was not sure, as she had only worked with the southern groups.

Maddy Shipman, representing Washoe County, stated they were in support of the bill as proposed to be amended regarding small meeting places, which would benefit small outlying areas. Reno's road impact fee was later incorporated into a regional impact fee, so the developer had the final say where the roads were to be installed.

Mrs. Freeman asked if Ms. Shipman had any input from the northern homebuilders. Ms. Shipman replied she had not heard from them. She had heard a rumor that the homebuilders wanted it to apply only to southern Nevada. Because it was enabling legislation she was not sure how much it would be used in the north. There was little likelihood that any impact fee would be imposed up north because there had been a figure established of 125,000 residents in one service area.

Dan Musgrove, representing the City of Las Vegas, indicated they were in support of the bill, especially with the amendments submitted by Ms. Porter. There had been some problems with legislation passed during the Seventieth Session adversely impacting fire stations, so the bill would allow impact fees to be used for them in the future. One question he had was the use of impact fees for start-up costs, and how park district costs could be integrated into eventual impact fees. As General Fund money was tight, the city would hope to be able to use impact fees after implementation to recoup start-up costs.

Mr. Bache asked Ms. O'Grady to address park tax use for the start-up costs. Ms. O'Grady looked at the statutes and reported it only indicated "actual costs of construction, estimated fees for professional services, estimated costs to acquire land, and fees paid for professional services required for preparation or revision of a capital improvement plan in anticipation of the imposition of an impact fee." She stated she would check into the question further.

Stan Olson, representing Las Vegas Metropolitan Police Department, testified they were in full support of the bill. A.B. 458 was written in the exact format already set up within the department in developing substations. He was available to answer any questions or give statistics the committee might need.

Pat Coward, Nevada Association of Realtors, wished to go on record in support of the bill on behalf of realtors statewide, as they were in agreement it would benefit all communities.

Mary Walker, representing Carson City, Douglas and Lyon counties, said they were all in support of the bill. It would be beneficial in rural communities where populations were spread out, and one community could be an hour's drive from the next. Impact fees would help with the burden of growth placed on developments rather than impacting all residents in a community.

Stephanie Garcia, representing the City of Henderson, stated they appreciated time spent by Ms. Porter in organizing local governments when drafting the bill.

ASSEMBLYMAN NEIGHBORS MADE A MOTION TO AMEND AND DO PASS A.B. 458.

THE MOTION WAS SECONDED BY ASSEMBLYWOMAN FREEMAN.

Chairman Bache clarified the amendment included the proposal submitted on paper and the suggestion by Washoe County to include small meeting facilities in outlying areas with a 3,000 square foot maximum. Ms. Porter indicated language was needed adding zoo facilities and arenas into the exclusionary language.

MOTION PASSED UNANIMOUSLY, MRS. GIBBONS AND MR. WILLIAMS WERE ABSENT FOR THE VOTE.

Chairman Bache closed the hearing on A.B. 458 and opened the hearing on A.B. 444.

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