# REIS REPORT

March 2008

news for Southwest Florida's commercial and investment real estate community

**REAL ESTATE INVESTMENT SOCIETY**




## BOARDROOM REPORT

***News from recent REIS board meetings***

**Luncheon Programs:**
The April program will be a presentation on Tax Reform & Government Spending by Lee Appraiser Ken Wilkinson, chairman of the Enough Is Enough State Spending Limitation Initiative and member of the state's Taxation and Budget Reform Commission.

Former lawmaker Carole Green will present the 2008 Legislative Review at the May meeting.

**Meeting location to change:**
When the new Pelican Preserve Clubhouse is completed, REIS luncheon meetings will relocate to the Clubhouse. The move is expected to take place in the next few months, so stay tuned to meeting notices and web site.

**Legislative Issues:**
Workforce Housing: Smart Growth Task Force is looking at Land Development Code changes to encourage development of affordable housing.
DR/GR Land Use: Bonita Springs is working on a draft amendment to their Comprehensive Plan that may be ready for Lee Planning Agency (LPA) review in May.
Commercial / Industrial Land Study: is the basis for a proposed amendment to Lee Plan, to be considered this summer, following review of School Concurrency issue.
Impact Fees: Lee County is expediting a study of Road Impact Fees, to be presented in September.

## CAPE CORAL DESIGN STANDARDS

Cape Coral is considering a draft ordinance to establish design standards for non-residential and compound use development. The standards would apply throughout the city except for the Downtown Core, Edge or Gateway Districts, and Industrial District. For details or a copy of the draft (NonResDesignStandards CA 2-22-08.doc), contact Rick Sosnowski, (239) 574-0552, rsosnows@capecoral.net.



## GREEN BUILDING IS HOT TOPIC

The Urban Land Institute (ULI) Southwest Florida chapter will present the forum "Green Building in Southwest Florida: Sustainability in Motion" on March 28. The program features five speakers on various aspects of energy and environmental design and construction for commercial projects. At Verandah clubhouse in east Fort Myers. Details at www.swflorida.uli.org.

**REIS June 10th luncheon meeting** will feature a presentation on Green Building techniques and economics by noted consultant Jennifer Languell, PhD. Languell is founder and president of Trifecta Construction Solutions and a leader in educating the development and construction industries on the benefits of Green Building.

## NEW FLOOD MAPS UNDERWAY

New Flood Insurance Rate Maps mandated by the Federal Emergency Management Agency (FEMA) become effective in September. Changes for area surveyors, engineers, developers and builders include:

- Surveys and other documents for sites in flood hazard areas must be converted from NGDV29 or created in NAVD88. Details at www.fema.gov/pdf/fhm/frm_gsab.pdf

- There are new floodways throughout Lee County, especially in North Fort Myers, along Six Mile Cypress Slough, and along Estero River and its tributaries. Construction within floodways is restricted. View proposed map panels at www.lee-county/dcd/fema.htm

- FEMA has concluded its appeal process on a map-panel level. However, property owners may still alter the flood zone assigned to individual parcels through a Letter of Map Amendment. Details at www.fema.gov/plan/prevent/fhm/ot_lmreq.shtm.

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## DECREASE ROAD IMPACT FEES

*By Jim Kinsey, former REIS Governor*

Recently, many small business owners in the real estate and construction industry pleaded with the Lee County Board of Commissioners (BOCC) to consider either a roll back or temporary elimination of impact fees. While some in the audience wanted action on all impact fees, the most regressive of these fees to the industry is the road impact fee which as, most know, had its rate tripled for most uses as of July 2007.

You have heard the anecdotal data: K-12 enrollment is down; traffic volumes are down; retail sales are down; everything is down as people are going out of business and fleeing the area. To the disappointment of those attending, the BOCC decided to delay their decision to allow staff to conduct additional "study" of the issue.

A memorandum was circulated from the County Manager's office containing an assessment of fee revenue under 3 alternatives which included doing nothing, eliminating the road impact fee altogether, and rolling back the fees to the 2006 schedule. The most prudent of the 3 alternatives is to roll back the fees to the 2006 schedule. The memo included a table which showed current projected road impact fee collections of $10 million over the next 12 months if we do nothing. By rolling back to the 2006 schedule, the estimated revenue would be $3.37 million or a reduction of about $6.6 million. As a person with a fairly healthy dose of economics in his educational background, it is naïve to assume there would be no change in behavior of the development community as a result of a very positive fiscal stimulus such as reducing impact fees. Capitalism is not a "static" concept. It's success or failure is determined by an individual's assessment of risk versus reward which can change dramatically through fiscal policy. Kennedy, Reagan and Bush all understood this concept as their tax "rate cuts" resulted in increased revenue into the Treasury. A roll back in the fees will have the same effect as developers with marginal projects will now be able to lower their cost , make their projects more in line with market rents, and thus be more inclined to take the risk to proceed. It is not only smart fiscal policy to cut the fees but there is a fairness issue which, quite candidly, is not transparent to the public.

The county doesn't have a good track record in estimating road impact revenue. In FY '05 and '06, the county collected $43.8 and $37.7 million respectively which were 243% and 144% respectively above estimates. In essence, the county collected $35 million of "found money" off the backs of developers for new roads. In FY '07, the county did not accurately adjust for the down turn which began in '06 and collected $32.6 million which was 80% of the budget. Also in FY '07, even after realizing the huge surpluses above, the aforementioned "tripling" of the rates went into effect. It should be noted that for FY '08, budgeted road fee collections equate to a preposterous $71.6 million as again, the county's static forecast didn't consider the affordability of the new fees to the development community. Something is vastly wrong with the system if the estimate is now at $10 million for the next 12 months.

If the fees are rolled back, I am confident the county will beat its $10 million estimate over the next 12 months. Political reality dictates that "growth must pay for growth". However, is the policy fiscally responsible or fair when clearly everyone benefits from growth? The county collects about $26 million in gas tax each year or about 15 cents per gallon of gas. This equates to each driver paying about a penny a mile towards road maintenance and nothing toward new construction. I can't imagine a county of our size with such a positive long term growth curve can't do more bonding for new roads. Perhaps someone at arms length with the county could weigh in on this issue. We need to create a more stable and predictable funding model for road building that assures development pays its fair share but taps other beneficiaries of new roads as well.

*Mr. Kinsey is a real estate broker and developer; past chairman of Fort Myers Planning Board and member of Lee County's Executive Regulatory Oversight Committee. He has a BA in Economics and MBA and was recently appointed by state university Board of Governors as a Trustee to FSU.*