

**Open Work Session
Development Impact Fees
September 6, 2016**

Mr. Keith Hall and Mr. Wayne Strausburg came before Council. Mr. Keith Hall said as a County we are looking at what are our options as it relates to as a function of new residential development. He said for background purposes, he would like to give Council a snapshot of the historical efforts that have related to the impact fee over the past 14 years. Mr. Keith Hall said it really goes back to a time in 2004, when Tischler & Associates, Inc., who are experts in determining impacts associated with residential and commercial development, did a study for Wicomico County. As a result of the study, there was a recommendation to look at implementing impact fees. As part of the study, the associated impacts with new development was factored out for schools, roads and community colleges. The study looked at a multitude of uses, such as residential, single-family, multi-family and commercial. At that time, the elected body moved forward with implementing the school impact fee on residential growth only (multi-family and single-family development). The report set the fees. Mr. Hall said it is important to know that when you are working with impact fees, you have to have a defensible number. Essentially, what you are charging as a fee, there has to be an essential nexus. You can make the essential nexus the impact of new development is in accordance with what a fee may be and how it is set. At that time, the County had single-family housing units at \$5,231 per unit and multi-family at \$1,524. He said the market was good, even though the County was just about at the cusps of seeing the downturn. The County was averaging about 200 new single-family construction homes per year. The fee was implemented and years go by. Then there was a downturn in the economy, and the housing sector was hit tremendously. Over the past six to seven years, the County has struggled to see on average anywhere from 60 to 74 new single-family dwelling units per year. Multi-family is cyclical as the County will have a big influx of multi-family units maybe one every ten years. Mr. Keith Hall said the County usually sees on average thirty multi-family townhomes being built in the municipalities. He said someone may ask where does this put us now. Mr. Keith Hall said since July 2014, the County, being the Executive and Council, agreed to a myriad of different alternative approaches to try to jumpstart or sustain that sector in the economy. He said the County offered an Economic Development Grant initiative, which was approximately \$400,000 for 74 single-family housing construction permits. Mr. Hall said someone may ask did the County receive a response to the Economic Development Grant initiative and the answer is yes. Mr. Hall continued he said someone may ask was it the response the County was looking for and the answer is yes. What does that mean? He said the County averaged about 74 houses for the given fiscal year and for the past 10 years, but that number is not enough. Mr. Keith Hall said someone may ask what is the next step. Mr. Cannon asked Mr. Hall what did he mean in saying that the number is not enough, to which Mr. Hall responded, the industry, especially the trade sector is still suffering. There are not enough permits being issued to keep the construction activity at a pace to really be an economic development initiative and to keep people working. Mr. Davis asked if there was a need for the houses to be built. Was there a big demand for the houses? Mr. Hall said one way to look at that is every year about 1,000 people come into Wicomico County, which translates into about 250 housing units. He said some of those housing units are going to be absorbed through existing homes and others are going to be part of new development. Mr. Keith Hall said there is always a need to have housing options. Not everyone wants to live in a multi-family unit, not everyone wants to own an existing home, and not everyone wants to build a new home. He said the market dictates the demand. Mr. Hall said the grant monies were exhausted very quickly so there was demand. Mr. Davis clarified that the demand was to build, to which Mr. Hall responded, yes, to build new single-family homes. Mr. Davis then asked if the houses were built and sold or were the houses built and now they are sitting there. Mr. Hall said, at this point, he cannot give a 100% accurate assessment, however, the houses were built. The lots are no

longer empty lots sitting on the tax role that the developers are responsible for. Mr. Cannon said he thinks that is part of what Council had asked for the first time. The Council asked for some type of tracking to see how successful the program was and whether the County actually contributed to the impact fee or not. Mr. Cannon said he thinks when it was renewed, after the first period of time, which he thinks it was a six-month trial period, the County decided to have a moratorium for another year, but asked if it could be tracked to find out if this is the correct way to create the incentive or not. Mr. Cannon said he does not think Council has seen that information yet. Mr. Keith Hall said a lot of the information is difficult to track. He said they could pull in some quantitative numbers, but he does not know if it will have a tipping point or not. Mr. Hall asked what is good for the economy. Is it 74 houses or 100 houses? He said he does not know where the tipping is but, at some point, it was important enough for the County to continue this effort for another 16 months as a moratorium. Mr. Cannon asked if the initial moratorium required the builders to fill out some type of document. Mr. Hall said it was grant paperwork on who built the homes and a little bit of information, but no information on where building materials were coming from. Mr. Hall said he thinks the paperwork had some information about how many employees they had, but he is not sure if that was in longevity or for the short-term in looking at the construction of the house. Mr. Joe Holloway said Mr. Roser did an audit study on this matter. Mr. Roser said he did a study but he does not have it with him, and he is not prepared to discuss the study. Mr. Hall said Mr. Roser's internal audit really just looked at the accounting measures that the department was using to make sure they were sound practices. There might, however, be some industry standards that may apply across the board. He said he knows there are representatives from the building industry here tonight that might opine in more detail. Mr. Cannon said he knows that they came up with some general terms in saying a house costs \$250,000 to build because this much in materials can give you that many jobs, so we have created economic development. He said he thinks Council is looking for something more specific, such as real figures and data that show exactly how that improvement was made. Mr. Hall said he thinks there is a challenge there, however, he will defer to a market specialist. Mr. Hall said what this has come down to, as far as an executive function, is that the County is coming up on the December 31st deadline for the moratorium and action will need to be taken. They are trying to keep it outside of emergency legislation. Therefore, they have to start considering what the alternatives are now. Mr. Hall said right now there is an unfair burden that is on one sector of the economy that is not doing anything to help stimulate the economy, let alone preserve and sustain what the County is looking for with regards to the number of people in that field. He said that is one of the reasons the Executive has introduced this legislation for the Council to consider. He said they know moving forward that they will still see a downturn in the economy. Mr. Keith Hall said there is a slight up-tick in the economy, but they know that tradespersons are very hard to find and there is not a lot of work for them right now. Mr. Hall said the County has created this market over the past 18 to 24 months using various economic development initiatives. Mr. Hall said, however, it is not projected to be sustainable moving forward if the County goes back to the full use of an impact fee, especially as it relates to the single-family residential development. Mr. Joe Holloway said it is pretty simple. There is the BAT technology that is costing \$10,000 or \$11,000, the sprinklers that the County is not getting rid of, and the \$5,000 impact fee. You are looking at a \$24,000 or \$25,000 increase to the cost of building a home in the County. If the County can get rid of the \$10,000 BAT technology and eliminate the \$5,000 impact fee, that may help the situation. He said building lots are at an all-time low right now. Mr. Strausburg said to Mr. Joe Holloway's point, the mean price of a home in Wicomico County for the better part of the past 18 months has been about \$155,000. Mr. Joe Holloway clarified that Mr. Strausburg is talking about a used home on the market. Mr. Strausburg said it is what is selling, but he does not know what is selling, as it could be a new home or an existing home. Mr. Strausburg said he is just tracking the median price. The single-family impact fees of \$5,200 is 3.35% of the median value. He said many, many times, we sit here as we did it earlier this evening with Ella

Disharoon, and we say here is another state mandate. This is something else the state has done to us. Mr. Strausburg said the state did add the BAT and sprinkler requirement to residential homes and the County had no choice, but the County has a choice here. There is clearly a barrier here over which the County has control and it becomes a philosophical discussion as to whether or not the County should view this from a stimulus standpoint or whether the County should view this as an unnecessary barrier to an industry that is struggling. He said when you look at Keith's numbers of 74 or 75 single-family homes, you are talking about \$384,000 a year. The impact fee is for schools. When you look at the Board of Education's operating budget and P&I, it is \$52,437,000. Mr. Strausburg said \$384,000 does not make a whole lot of difference. Mr. Cannon said he agrees. Mr. Joe Holloway said it depends on who you cut. Mr. Strausburg said his point is that it is very hard to argue that without this impact fee, it is going to stress our ability to afford our school system. Mr. Strausburg said his kids live in another state, so if he built a new home why should he have to pay a local impact fee for schools when he does not have children in the school system. Mr. Cannon said he agrees with him and that is what Mr. Kilmer has always said is that it is just punishing people who are building a new house. He said if someone moved to the County with 10 kids and wanted to buy an existing house, there would not be an impact fee whatsoever. Mr. Hall said there would not be an impact fee whatsoever if they bought an existing single-family dwelling. Mr. Cannon asked how this falls in budget wise as we come into the next fiscal year with a \$300,000 hit, as the County has the scholarship program that was just implemented and there is a huge CIP. Mr. Strausburg said the County's budgeted new revenue is \$123,000,000 and that does not count the carry forward and that kind of thing. The \$384,000 is .003%, a third of one percent, of the revenue budget. He said from his standpoint, it is not a fiscal argument. The County created a barrier that is unnecessary and inherently perhaps unfair. Mr. Joe Holloway said the thing about the impact fee that has always gotten under his skin is that it is very unfair. He said somebody can move into Wicomico County in an apartment with four kids and they impact the schools and roads just as much as a family that built a new home that is paying \$5,200. He said some of the people buying a new home may not even have children. Mr. Joe Holloway said he does not know when Tischler & Associates, Inc. did the report as he was not on Council then, but he would have questioned the impact fee. He feels very strongly that it is lopsided. Mr. Keith Hall said he thinks there is also the inequity of the surrounding counties. He said when you look at surrounding counties, lower shore counties without an impact fee, that lends itself to an unlevel playing field when it comes to new construction. Mr. Joe Holloway said if the County is going to have an impact fee, it should be even across the board. Mr. John Hall said he thinks there are two different issues. One is what the impact fee is designed to do, and the Council does not have confidence in that. Since the impact fee did not do what it was supposed to do, we can throw that off the table and say we need to rebuild the use of the impact fee if the County is going to have an impact fee, which he thinks is a given. The other thing is saying 3.5% is going to hurt someone from buying something they want and it is somewhat foolish to say that 3.5% will deter someone. Mr. John Hall said the BAT System that costs 10% and a sprinkler system that costs 12% or 14% might deter people, but 3.5% is not. Mr. Keith Hall said he thinks the concern is that the impact fee is on top of everything else, not just when you look at it from a standalone perspective. Mr. John Hall said right this minute the County is looking at it as a standalone perspective. He said the County has no figures to back it up and the County has no figures to say it is stimulating. Mr. John Hall said Mr. Keith Hall said there are 74 houses, but he knows the County is not going to have 74 houses this year. Mr. Keith Hall said that is what makes it very tough to analyze, as there are many moving pieces such as the tier maps, sprinkler legislation, and the BAT systems. Mr. Keith Hall said it is very difficult because it is not an apples-to-apples perspective. He said what he is saying is across the board there are about 74 houses on average. The County, however, is trying to preserve the construction trade. It is not saying increase the construction trade by 20% or 25%. He said that would be great, however, with all the efforts this County had made to try to reduce the impact associated with new residential development,

at the best the County is just hitting the minimum target. Mr. John Hall said he really appreciates his response. He knows the County just approved road maintenance for two subdivisions that the County has no relationship with because they did not build any houses. He wonders are there more. Mr. Kilmer said he had some folks talk to him in the community about the County put the impact fees in place to deal with the impacts of new home construction. He wonders how true that is because there is a perception in the community that is why the County has impact fees. He said he knows that school enrollment has not expanded much, but this year the enrollment did go up. Mr. Kilmer said the impact fee was supposed to be for the expansion of new schools, and he thinks the County has expanded schools in the past decade. The County has built new schools to replace schools like West Salisbury for instance. He said we need to drill down some of those numbers and look at if this fee was actually used to pay for the expansion, which is the theory of 10 or 15 years ago when this impact fee was put into place. Mr. Kilmer said it would be nice to see the Tischler & Associates, Inc. report that he heard so much about. He said it seems mythical out there, as he has never seen a copy of it. He said Council could go back and see if what they predicted really took place. There are lot of people in the community saying this was a very hard fought thing to get into place and there is really a need for it. There was a commission that said there was a need for it, but he thinks maybe the reality of the situation did not match the theory at the time, and it would be good, if that is the case, to explain it to the public. He said he thinks there would be less controversy. Mr. Keith Hall then provided a copy of the Tischler & Associates, Inc. report to Mr. Creamer. Mr. Keith Hall explained that one of the things to look at is this report was predicated on a different time in the market. This report was completed right before the bottom fell out, so it is difficult to try to make it relevant to today's economy. He said if he had the data, he could easily quantify it, however, it has been so subjective to change that the accuracy or validity of any assessment he does beyond just saying the County averages roughly 74 single-family dwelling units a year and 30 multi-family units, is not very accurate beyond that. Mr. Hall said he is looking at it from the equity perspective but also the preservation of the trade itself and that is something this Council is going to have to consider. He asked should the County have an unnecessary or an additional constraint that this put on this on sector. He said that is \$400,000 or \$450, 000 that could be trickling through the economy. Mr. Keith Hall asked at what point does the tax revenue do what it was supposed to do. The tax revenue pays for the growth, not the impact fee on the front end as that is unfair for the person that might be buying an existing house or unfair to the person that does not have children in school. He said that is the whole point of our tax rate. If our tax rate is not enough to cover it, then that is something the County needs to analyze as a separate subject. Mr. John Hall said what he is afraid of and what he is saying is absolutely true is that the trades do generate jobs and we do need those trades in our County, but his concern is as we talked about our children not living in this state is that the contiguous states have school taxes. Mr. Strausburg said the County is not allowed to have school taxes, to which Mr. John Hall responded he knows but the impact fee was supposed to be in part for education. Mr. Strausburg said the thing he struggles with is the notion that the only impact of a new residence is on schools. He said there is a residence on police, there is a residence on fire service, and there is an impact on roads. He said, again, what he struggles with is the underlying philosophy, and he thinks the underlying philosophy is terribly flawed. Mr. Cannon said what Mr. Keith Hall touched on is the different time period, as they wanted to impose APFOs on all the other stuff, but they settled on the impact fees. The County, however, was in the middle of a growth market at that time. Mr. Kilmer said in the legislation it talks about development impacts fees and school construction impact fees. He said he knows the County only has school construction impact fees to pay for schools, but it also talks about development impact fees. He then asked are those terms used interchangeably. Are they two separate fees? Mr. Keith Hall clarified that Mr. Kilmer is talking about Chapter 130 of the County Code, to which Mr. Kilmer responded, yes, he is looking at the actual law. Mr. Keith Hall said he would need to see the context of it, but the County has a distinct school impact, however, there are other development fees

that go along with construction when you start talking about permitting and review. Mr. Keith Hall said in the beginning of Chapter 130 there are definitions for all the words that are used. He recommends looking at the definition of what a development fee is versus a school impact fee. Mr. Keith Hall said Mr. Strausburg brings up a perfectly legitimate point in that it was not uncommon back in the time of APFO, adequate public facility ordinances, when growth was skyrocketing, that all the jurisdictions wanted that famous saying "let growth pay for growth." He asked what does that mean today. Mr. Keith Hall said he does not think what it means today is the same as what it meant 14 years ago. As a matter of fact, when the Tischler study was done, they recommended a fee for roads and the community college, but, at the time, the only thing Council was comfortable with was the school impact fee. He said moving forward, collectively as a legislative body, the question is, what is this Council comfortable with at this point. Mr. Cannon said he asked for the proof of performance out of curiosity, as he would love to see what happened. Mr. Culver said times have changed so much. He then asked can you even track what happened. Mr. Strausburg clarified that he is talking about the stimulus, to which Mr. Cannon responded, yes, he knows the numbers and the basic numbers are not a bad sell. Mr. Keith Hall said they will figure out something to bring back to Council. He said the challenge was the grants and the sprinkler legislation skew the numbers so disproportionately. He said they took 74 permits and turned them around in six months, which is what the County usually does on average in one year. Some people say it is front loading or rear loading, but you still get 74 permits one way or another. Mr. Hall said in FY15 there were 100 new single-family residential dwellings constructed. Part of that is directly related to people coming in before the sprinkler legislation went into effect July 1st. The other part is the moratorium on the school impact fee. He said if you were to ask him what percentage is attributed to what program, he does not know how to articulate that answer. Mr. Joe Holloway said Mr. John Hall made a comment that it may not deter people. Mr. Joe Holloway said it may not make a difference to the people, but it may make a difference to the banks with people going to seek financing on how much money they can borrow. Does this 3% push them over the financing limit? Mr. Joe Holloway said another thing, which is a little off topic, is a fellow he knows has been building homes, and he bought some of the permits before the sprinkler system came in. He is building nice homes and renting them because they will not appraise for what he has in them. He is building \$250,000 or \$300,000 homes that will not appraise. Mr. Strausburg said that is the other issue on appraisals is that the sprinkler systems and the BAT systems do not appraise for anything because there are not any comparables out there. He said it does have a negative impact on financing underwriting. How much of an impact, he does not know. Mr. Strausburg said it comes back to this is a barrier over which the County has complete control and does the County think the barrier is worthwhile. He would argue from a fiscal standpoint that it is so de minimus right now, so why have the barrier in place while we are still struggling in that sector, and why have an impact associated with only one public service. Executive Bob Culver said in order to recoup the impact fee, three years on an average price home, the County will recover all that back in taxes. Not to mention what the County will do through the workforce in income taxes with building and 3.2% piggyback tax, plus the house will be in perpetuity. Whereas the impact fee is a one-time shot and that is it. It is easy money and then the County is out. Mr. John Hall said it is easy money, but the County will also have the tax money. Mr. Culver said the tax money coming in but you have the long wait, so why add \$5,200. Why not go for the long-range and try to increase your population. Mr. Strausburg said some people call it the double whammy. Mr. Cannon asked what is the timeframe for the legislation, to which Mr. Creamer said the legislation needs to be introduced at the next meeting. Mr. Culver clarified that is it 60 days if it is non-emergency, to which Mr. Hall responded that is correct.

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John T. Cannon, President

Absent

Matt Holloway, Vice President




Ernest F. Davis, District 1



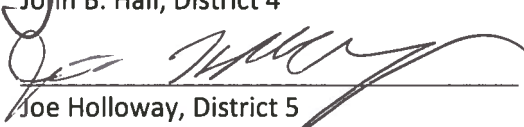
Marc Kilmer, District 2



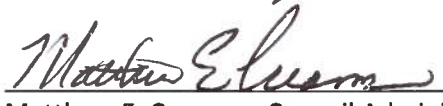
Larry W. Dodd, District 3



John B. Hall, District 4



Joe Holloway, District 5



Matthew E. Creamer, Council Administrator