



The Impact of Impact Fees

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Topics Covered

- ❁ Overview of Impact Fees and Other Development Fees
- ❁ Trends
- ❁ Impact Fees: Protecting Taxpayers or Hindering Development?
- ❁ Impact Fees as a Planning Tool
- ❁ Legislation



Financial Challenges Facing Municipalities

- ✿ Aging infrastructure
- ✿ Development pressures
- ✿ Service level expectations
- ✿ Reduced Federal and State funding
- ✿ Pressure to keep the tax levy down
- ✿ Fair allocation of costs between existing and new development



What are Impact Fees?

Fees charged to new development to recover the proportionate share of the capital costs for public facilities required to serve new development.



Why Use Impact Fees?

- ✿ Reduce subsidy of new development by existing property owners
- ✿ Establish a dedicated source of funds
- ✿ Does not replace the developer's responsibility to provide infrastructure within a subdivision (on-site)



Impact Fees in Wisconsin

- ✿ In Wisconsin—Section 66.0617 of Wisconsin Statutes
 - Cash contributions, contributions of land or interests in land or any other items of value that are imposed on a developer by a political subdivision
 - Municipalities can enact ordinance that imposes impact fees on developers to pay for capital costs of development



General Definitions

- ✿ New development – construction or modification of improvements that create a need for the expansion of, improvements to, or additional public facilities
- ✿ Capital costs – Capital costs to construct, expand or improve public facilities, including the cost of land, legal, engineering and design costs, but excluding vehicles



What Can Impact Fees Be Used For in Wisconsin?

- ✿ Highways and other transportation facilities
- ✿ Traffic control devices
- ✿ Collecting and treating sewage
- ✿ Collecting and treating storm water



What Can Impact Fees Be Used For in Wisconsin?

- ❁ Pumping, storing and distributing water
- ❁ Parks, playgrounds and other recreational facilities
- ❁ Solid waste and recycling facilities
- ❁ Fire protection facilities



What Can Impact Fees Be Used For in Wisconsin?

- ✿ Emergency medical facilities
- ✿ Law enforcement facilities
- ✿ Libraries



Impact Fees Cannot Be Used For in Wisconsin...

- ✿ Schools
- ✿ County-imposed fees for highways
- ✿ Fixing existing facilities
- ✿ Share of facility that replaces an existing facility
- ✿ Operating and maintenance costs
- ✿ Municipal administrative space (Village Hall)



Procedural Requirements For Impact Fees - Wisconsin

- ✿ Public Facilities Needs Assessment
 - Inventory of existing public facilities
 - Identification of deficiencies based on service level standard
 - Service level standards
 - Municipality can set standard
 - Parks: Acres/1,000 residents
 - Law Enforcement: Officers/1,000 residents



Procedural Requirements For Impact Fees - Wisconsin

- ❁ List of recommended public facilities and estimated costs
- ❁ Computation of fee
- ❁ Effect of fee on housing affordability
- ❁ Public Hearing
- ❁ Adoption of ordinance



Procedural Requirements For Impact Fees - Wisconsin

✿ Ordinance Provisions

- Fees collected at payment of building permit
- Revenues from fees placed in segregated accounts (one account per facility)
- Spent on facility within time periods specified in statutes (more on that later)
- Procedure for appealing impact fees



Standards for Impact Fees - Wisconsin

- ❖ Fees must be tied to actual capital costs or reasonable estimates
- ❖ Must be a rational relationship to need for public facilities
- ❖ Cannot exceed proportionate share of capital costs required to serve land development



Other Development Fees

- ✿ Fee-in-lieu of Land Dedication/Platting Fee
- ✿ Sewer Connection Fees
- ✿ Water Connection Fees





Fee-In-Lieu of Land Dedication/Platting Fee - Wisconsin

- ❖ Wisconsin Statute 236.45
- ❖ Require dedication of land or fee in lieu-of land dedication within new development
- ❖ Fees may only be imposed for parkland acquisition and initial improvement (Wisconsin 2007 Act 44)
- ❖ Costs: Construction, land, legal, engineering, design



Connection Fees - Wisconsin

✿ Fee for new connection to sewer/water system to offset capital costs

✿ Also called:

- Reserve Capacity Charge
- Availability Charge
- Capital Recovery Charge
- Hookup Charge

Recent Legislation Affecting Impact and Development Fees

- ❁ 2005 Wisconsin Act 203
- ❁ 2005 Wisconsin Act 477
- ❁ 2007 Wisconsin Act 44



2005 Wisconsin Act 203

- ✿ Required that impact fees not used within seven (7) years after they are collected to be refunded
- ✿ Replaced the “within a reasonable time period” language



2005 Wisconsin Act 477

- ✿ Eliminated “other recreational facilities” as an eligible facility
- ✿ Specifically excluded vehicles as a capital cost
- ✿ Time of payment limited to within 14 days of a building or occupancy permit
- ✿ Took away authority to impose fees-in-lieu of land dedication on subdivisions
- ✿ Accounting and reporting requirements
 - Separate accounts for each fee
 - GAAP accounting
 - Must be used for the particular capital costsAnnual report published as a Class I notice
- ✿ Refund of interest earned as well as original fees
- ✿ Took away county authority to impose impact fees



2007 Wisconsin Act 44

- ❖ Payment made upon issuance of building permit
- ❖ Grandfathered in fees collected for “other recreational facilities” if the facilities were substantially complete as of 6/14/2006
- ❖ Allows fees in lieu of land dedication for acquisition and initial improvement of parkland
- ❖ Complex set of time limits for expending impact fees



New Time Limits for Spending Impact Fees

- ❁ Collected prior to December 31, 2002 must be spent by December 31, 2012.
- ❁ Impact fees collected from January 1, 2003 through April 10, 2006 must be spent by the first day of the 120th month beginning after the date on which they were collected.
- ❁ Impact fees collected after April 10, 2006 but within 7 years of the effective date of the ordinance imposing the fees must be spent within 10 years of the *effective date of the ordinance*.
- ❁ Impact fees collected after April 10, 2006 and more than 7 years after the effective date of the ordinance imposing the fees must be spent within a reasonable period of time.



Impact Fees in Illinois

- ✿ Specific enabling statute for road improvement impact fees
- ✿ Several impact fee bills proposed in last legislative session
 - Fire protection district fees
 - Countywide impact fees for Kendall, Boone, DeKalb and Grundy counties
 - Development impact fee authorization act
- ✿ School Impact Fee Task Force re-established
- ✿ Non-road impact fees currently imposed under more general municipal authority



Road Improvement Impact Fees - Illinois

- ✿ 605 ILCS 5/5 901-919
- ✿ Applies to counties with >400,000 population and home rule municipalities
- ✿ Collected at building or occupancy permit
- ✿ Fees must not exceed the cost of road improvements that are specifically and uniquely attributable to a new development
- ✿ Fees must be reduced for other contributions, including money, land, construction of road improvements, user fees or taxes used to fund the improvements

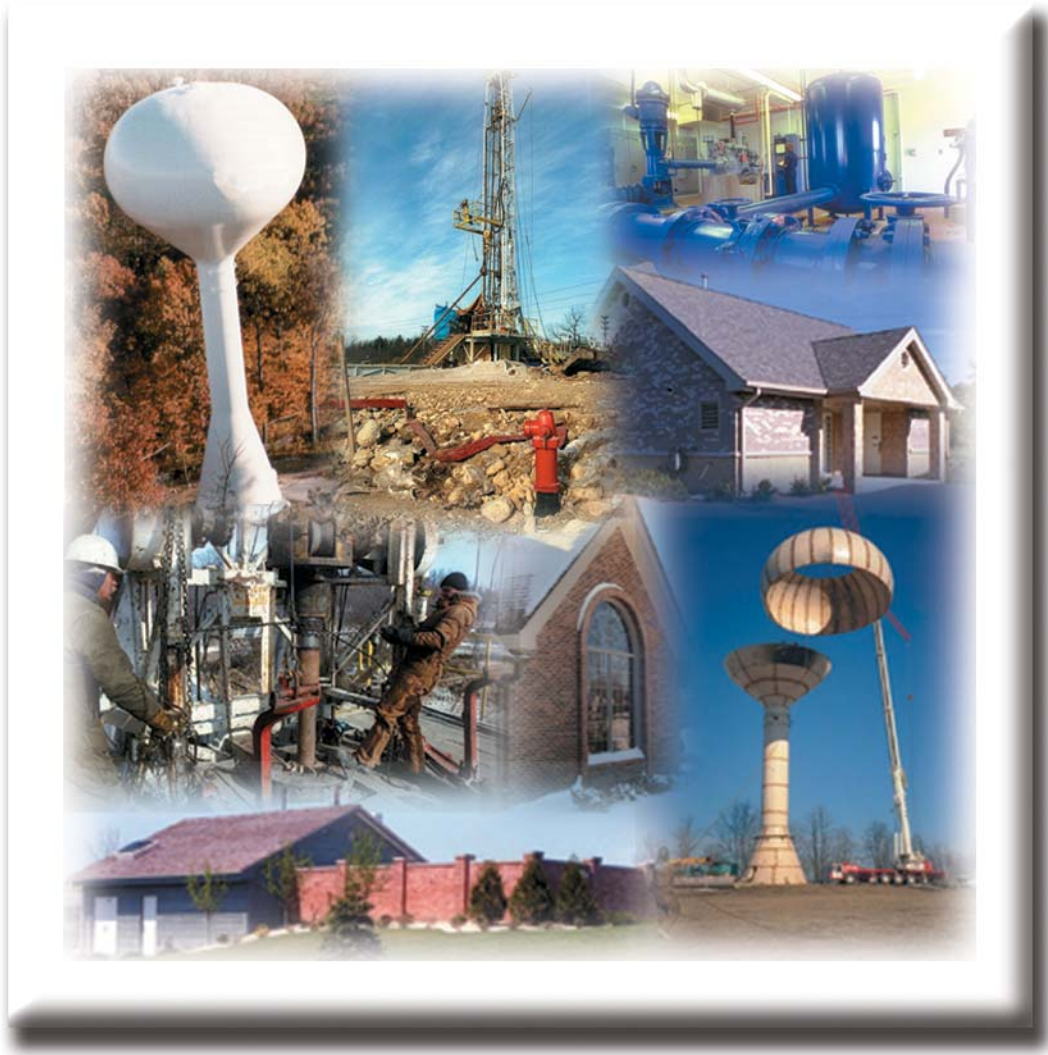


Authority for Other Impact Fees - Illinois

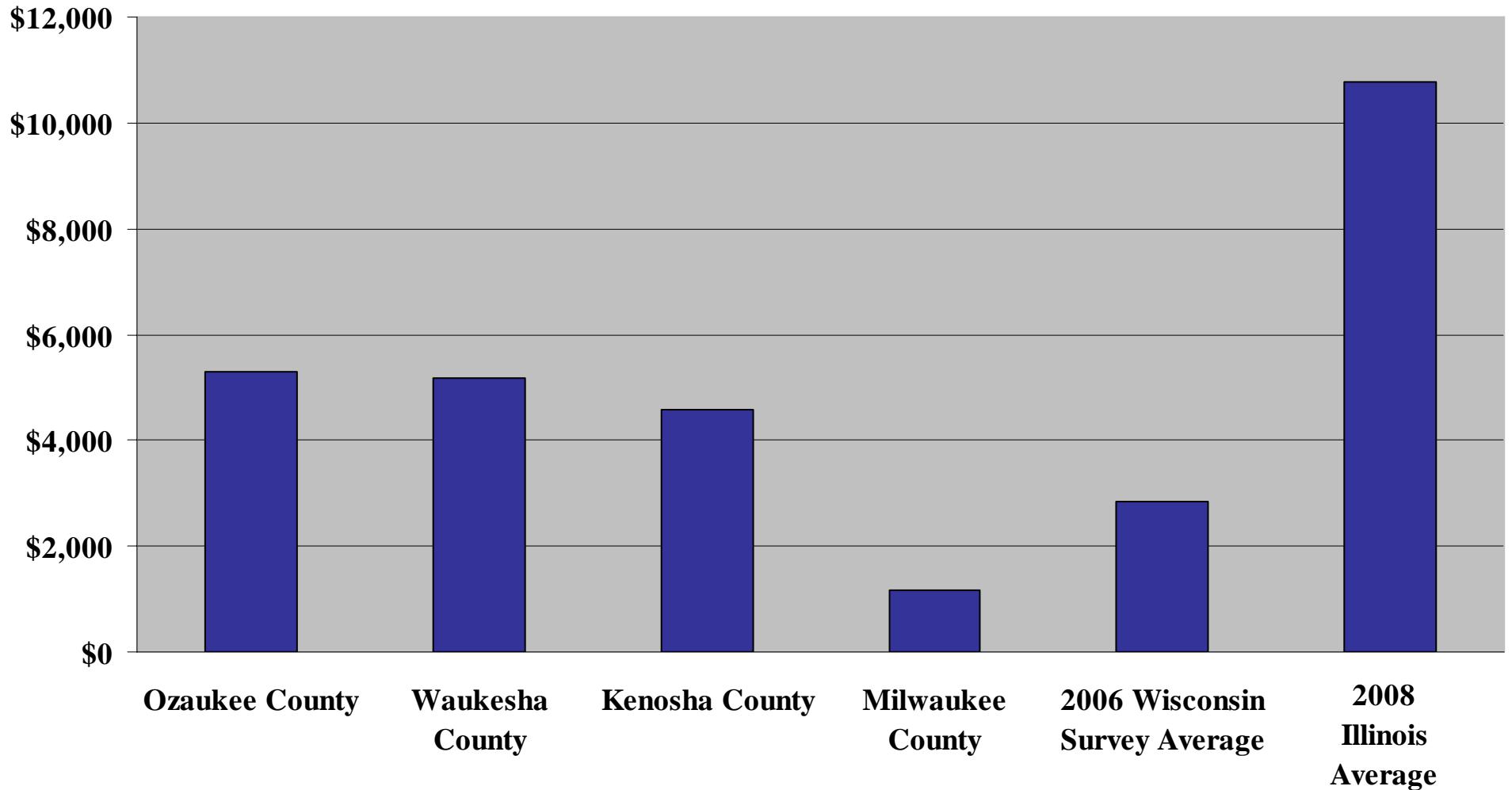
- ✿ No specific enabling statute
- ✿ Home rule authority is normally found by courts to include the authority to impose impact fees
- ✿ Fees must pass several tests
 - Fee is clearly a fee and not a tax
 - Fees must be applied equally to all parties on the same basis
 - Nexus between the fees charged and the needs generated by the new development



Trends in Impact Fees

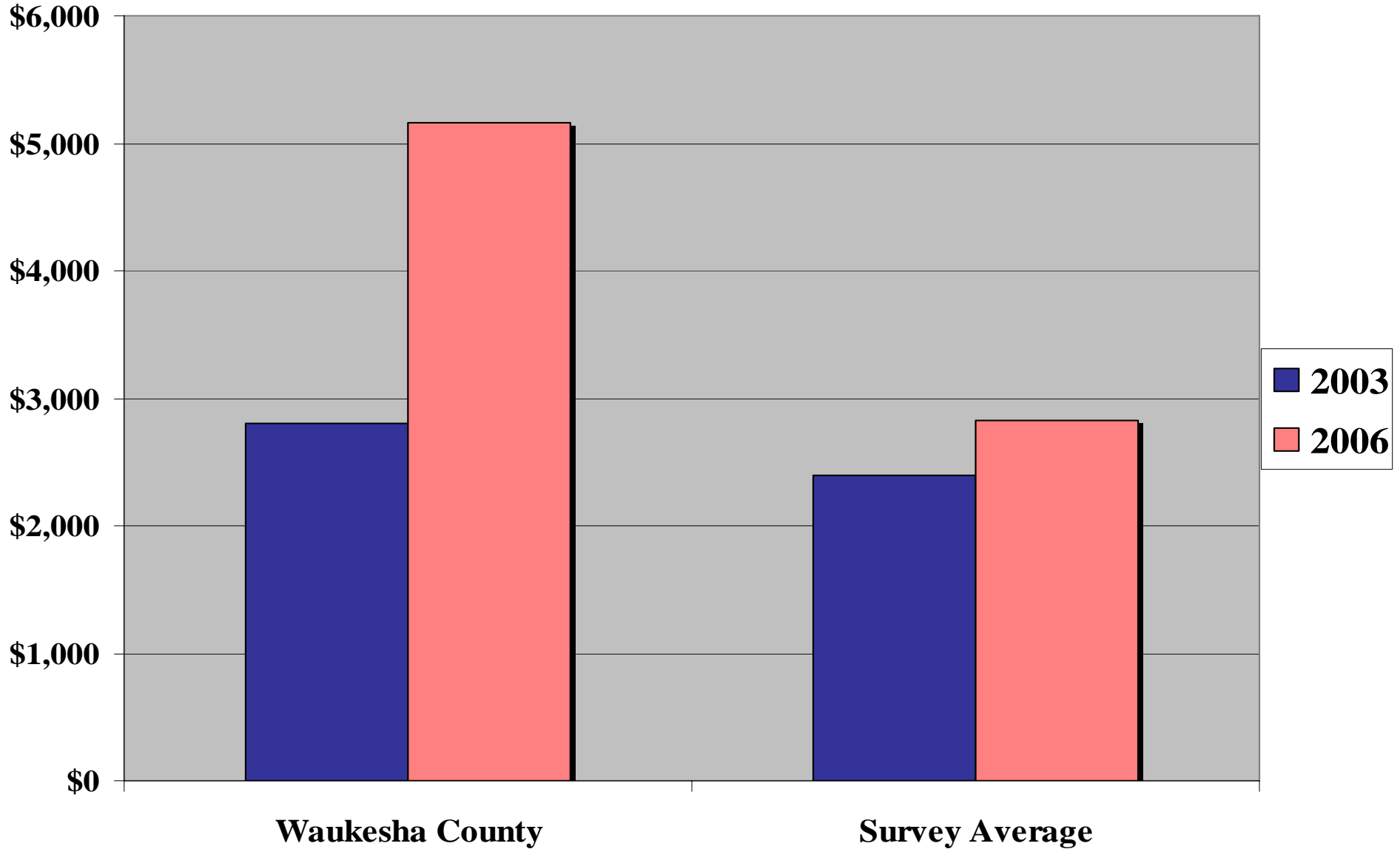


Average Total Fees per Single-Family Residence



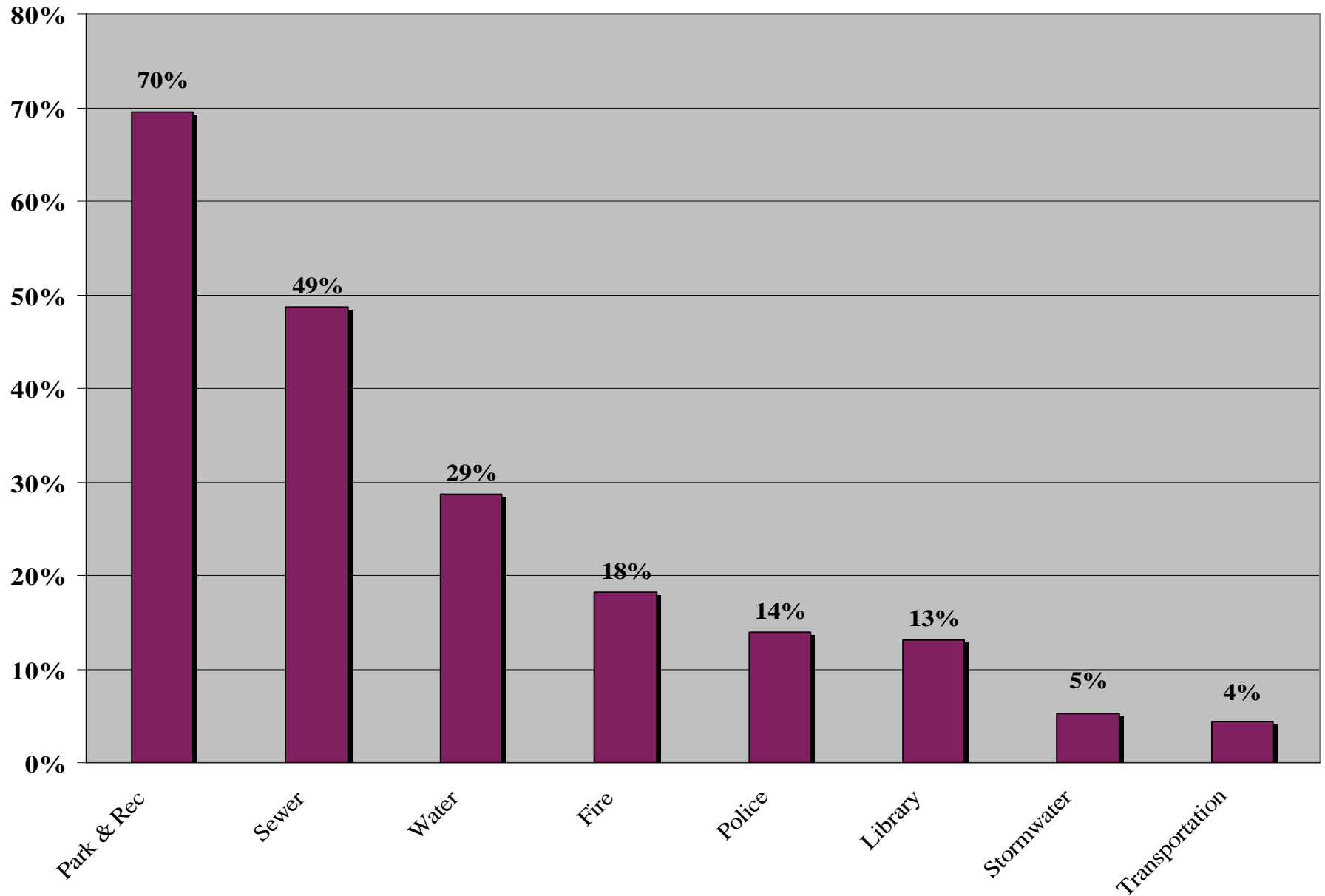
Source: Ruekert/Mielke 2006 Development & Impact Fee Survey, Municipal Economics & Planning
2008 Illinois Impact Fee Survey

Average Total Fees per Single-Family Household 2003 vs. 2006



Source: Ruekert/Mielke 2003 and 2006 Development & Impact Fee Surveys

Fees Most Commonly Used - Wisconsin



Source: Ruekert/Mielke 2006 Development & Impact Fee Survey

Impact Fees: Protecting Taxpayers or Hindering Development?



Arguments Against Impact Fees

- ✿ Potentially slow development
- ✿ Location of business and development
- ✿ No need for fees: expanding tax base



Do Impact Fees Slow Development?

Municipality	Total Fees/Single-Family Unit	2000 Equalized Value ⁽¹⁾	New Construction ⁽¹⁾ 2000-2005	% Increase
Town of Somers	\$10,885	\$441,739,800	\$74,737,000	17%
City of Delavan	\$8,379	\$362,327,200	\$66,749,700	18%
City of Pewaukee	\$8,000	\$1,262,617,000	\$347,295,500	28%
Village of East Troy	\$7,635	\$170,010,500	\$39,625,500	23%
Wisconsin		\$258,023,889,800	\$42,268,297,400	16%

Source: Wisconsin Department of Revenue

(1) Excludes personal property



Factors Affecting Business Location

- ✿ Growth & diversity in employment
- ✿ Demographics
- ✿ Infrastructure
- ✿ Government regulations
- ✿ Efficient, high-quality public services
- ✿ Labor supply
- ✿ Product supply
- ✿ Costs
 - Land, building, labor, inputs, transportation, utilities, taxes, development fees



Impact Fees as a Percentage of Building Costs

Building Description	Square Feet	Total Estimated Construction Cost	Proposed Impact Fees	
			Impact Fee	Percentage of Total Cost
Restaurant	6,780	\$1,186,500	\$4,678	0.4%
Bank	4,662	\$815,850	\$3,217	0.4%
Sporting Goods Store	12,280	\$2,149,000	\$8,473	0.4%
Medical Clinic	16,900	\$2,366,000	\$11,661	0.5%
Office Building	24,954	\$3,493,560	\$17,218	0.5%
Retail Center	5,993	\$1,048,775	\$4,135	0.4%
Furniture Gallery	19,000	\$3,325,000	\$13,110	0.4%
Total	90,569	\$14,384,685	\$62,493	0.4%

Source: Impact Fees for City of Oconomowoc



Conclusions

- ❁ Reduce subsidy of new development by existing development
- ❁ No support for reducing amount of new development
- ❁ Support high quality of life



Resources for Facility Planning and Impact Fees

- ✿ Ruekert/Mielke surveys
- ✿ WI Office of Justice Assistance – Statistical Analysis Center — www.oja.state.wi.us
 - Law enforcement incident reporting and staffing levels
- ✿ WI Department of Public Instruction—Division for Libraries, Technology and Community Learning—Public Library Development www.dpi.wi.gov
 - Annual public library statistics
 - Wisconsin Public Library Standards
 - Library Facility Space Needs: A Planning Outline
- ✿ National Fire Protection Association — www.nfpa.org
 - U.S. Fire Department Profile
 - Fire and emergency incident statistics
- ✿ The Brookings Institute — www.brookings.edu/metro/publications/nelsonimpactfees.htm
 - “Paying for Prosperity: Impact Fees and Job Growth”, June 2003
- ✿ impact fees.com — www.impactfees.com





Now We'd Like to Hear from You!

- ✿ Benefits you've experienced from using impact fees
- ✿ Biggest challenges with using impact fees
- ✿ Have impact fees slowed development?
- ✿ Questions about impact fees

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