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August 18, 2021

Teresa Lamar-Sarno, AICP  
Deputy City Manager  
City of Port St. Lucie  
121 SW Port St. Lucie Blvd.  
Port St. Lucie, FL 34984

RE: St. Lucie County Comments on proposed City of Port St. Lucie Phase One  
Mobility Plan & Mobility Fee Technical Report

Dear Ms.  Lamar-Sarno,

Please find below, St. Lucie County's comments on the Port St. Lucie Phase One Mobility Plan and Mobility Fee Technical Report, received August 5, 2021, and brief responses to statements made at the July 21, 2021, Port St. Lucie City Council Summer Retreat. These reflect County staff's official comments on this proposed Plan.

Please include this correspondence in the official record and agenda package for the scheduled public hearing on the subject Plan and related Ordinance on Monday, August 23, 2021.

**General Comments:**

1. At the 7/21/21 PSL meeting, the City's outside counsel reiterated repeatedly that the "County will choose" what the PSL permit holders experience on 10/1: that the County will choose what fee it will impose, and it will choose how much to collect. There was no opportunity at that meeting for County staff to correct the record but the County, under its long-standing adopted ordinances, must collect the adopted fee for each permit issued for new construction in the County, and must collect at the adopted rate. The only reason the County could provide a discount in PSL was through the Interlocal, which the City has terminated as of October 1, 2021.
2. Both at the 7/21 meeting and in the City of Port St. Lucie Phase One Mobility Plan and Mobility Fee Technical Report (received 8/5/2021,) the City's consultant suggests the failings of concurrency without disclosing an important benefit to local government: under concurrency, the developer must fix the road segment they cause to "fail" even if that cost is more significant than the Impact Fees due. Under Mobility Fees, concurrency is rescinded, no traffic studies are created, impact to or failure of segments is unknown, the fee is paid, and the local government is left to fix the problem, whether the fee is adequate to fix the problem or not. The same is true of new roads needed by the development.

3. **Fee Increase:** The consultant bases the significant City fee increases on the legal argument that the County can no longer collect its fee, and thus the total collected from the permit holder will be less on October 1, 2021 than would be due today. In the 7/21 meeting, neither the City Attorney nor their outside counsel followed the consultant's lead, stating the County can collect their fee. This seems to disallow the dramatic fee increases by the City under the most recent amendments to the Florida Impact Fee Act.
4. **Report Methodology Discrepancies:**
  - a. The study does not delineate the travel handled by county, state and city roads, separately. This variable is typically used to calculate the different portions of the fee.
  - b. Construction costs to add capacity seem to be low and are unlikely to cover the full impacts of new development. (The technical studies should document the full cost and the Boards/Councils can make the policy decision of adopting them at reduced percentage).
  - c. The conversion of ITE based vehicles trip data to PMT is not clear since ITE is for auto trips only and the PMT includes all modes. Related to this, ITE published a sample of non-auto trips, which is not referenced in the report. These non-auto trips will have different trip length and capture rates.
  - d. The study utilizes physical capacity of non-auto assets, but evaluates actual use of autos. A car/SUV has capacity for 5 to 7 people, while the utilization is more like 1.5 persons. The approach is inconsistent between modes.

**Comments by page:**

*Page 5:* The Mobility Fee study references unincorporated enclaves, and adjacent impact areas, as potential candidates for the fee. Extra-jurisdictional authority is restricted by the Florida Constitution and Florida Law. There is no authority for the City to impose a mobility fee or impact fee outside of its jurisdictional boundaries.

*Page 10* Florida statute 163.3180(5)(f) appears to be misquoted.

*Page 13:* The report notes that a distinguishing feature of mobility fees is that they may be applied in different areas and at different rates. Impact fees may also be applied that manner.

*Page 14:* The report implies that the expenditure of County impact fees outside of municipal boundaries contributes to urban sprawl. This suggestion fails to recognize that the impact of new growth is significantly broader than the street system adjacent to new development. The use of county impact fees outside of municipal boundaries does not contribute to urban sprawl but rather responds to the impacts of approved development.

*Page 20-24:* The report discusses a combination of impact fee and exaction cases, conflating their application. Exactions are the exercise of executive authority relating to contributions required to specific property based upon its circumstances. Impact Fees and Mobility Fees are legislative enactments applied over a broad geographic area and not targeted at an individual property but rather numerous differing properties. The data source relied upon is not clear, rendering it difficult to determine whether it satisfied the most recent and localized data requirements of Florida Law.

*Page 30-31:* On what annexation and growth did the consultant base the 2045 PMR for the WOR area? Absent annexation, and the present Future Land Use density/intensity allowances, how was this calculated?

*Page 45:* The study acknowledges that a local government cannot charge new development for existing deficiencies but to evaluate the capacity of the system, applying a system wide analysis. That is, they evaluate the deficiency of the system by considering the entire road system. However, the mobility fee is not based upon system wide improvements, such as a consumption-based impact fee, but rather specifically identified improvements.

*Page 58:* The report indicates that the mobility fees have been formulate so that new development will fully mitigate its impact to the City, County and State roads. The Study does not define what it considers to be the

State and County impacts or how the inclusion of six (6) county road segments mitigates all the impacts to the County Road System.

*Page 64:* The report recommends the imposition of a tiered mobility fee for residential uses based upon a per square foot fee. It does not explain the ratio between house size and persons per trip.

*Page 71:* The report recommends the immediate implementation of any fee that is lower than the existing impact fee but the pre-existing fee utilized for comparison is the County's fee and not the City's current fee. The comments seem to imply that the County impact fee will no longer be imposed and therefore, the City may unilaterally implement the mobility fee without awaiting the statutory period, if the new fee is lower than existing County fee. The determination as to whether the mobility fee needs to provide the 90 period before implementation should seemingly be based upon the relationship to the City's existing impact fee not the County's fee.

*Page 72:* The report recommends that the mobility fees be implemented immediately with a supermajority vote of the City Council via a finding of extraordinary circumstances. No basis under the law is apparent.

*Page 72:* The six (6) county roads within the current County & City interlocal agreement are factored into the costs, with only a portion of Midway Road is projected to be over capacity. Yet all are included in the Mobility Plan. For the Midway Road segment from East Torino to Selvitz the cost included was approximately \$23,000,000.

*Page 72:* Further, the Report seems to imply that funding may be provided for those County segments but does not assume any responsibility for the improvement. Glades Cut Off Road is also included with an impending need to widen, but it appears that the City plans to collect for County road projects without responsibility for the road or the expansion. Further, the report describes that funding may be contributed to the project but that is not mandatory. This would undercut the fee's validity if using a project cost in calculating the fee rate while not committing it toward that project.

*Page 73:* The Report agrees that the City cannot repeal County Impact Fees and that the County may attempt to collect its fees within the City. The report suggests that there is a compelling argument that the City should be able to collect in the unincorporated area for trips that impact on City roads or on the County roads within the City. Extra-jurisdictional authority is restricted by the Florida Constitution and Florida Law. There is no authority for the City to impose a mobility fee or impact fee outside of its jurisdictional boundaries. It also suggests a basis for collecting a mobility fee in the unincorporated area is because the County is not funding these improvements. This is not a sufficient basis under the law, even if it was true. The timing and planning for road improvements is the responsibility of the governmental entity that is obligated to maintain and improve that road. Concurrency is a notable tool in jurisdictional collaboration to coordinate need, timing, and responsibility for demanded improvements.

*Page 73:* The Report indicates that if the County continues to collect its Road Impact Fees within the municipal boundaries, that it must demonstrate there is not a double counting for the road within its Mobility Fee. The responsibility of County and State roads are statutorily established with each of those entities. The City has no responsibility over county roads or state roads, regardless of whether they are within their boundaries. The City is the entity that must demonstrate and establish, prior to charging a new development, that they have the responsibility for those roads assessed or secured consent of the State and the County to make the improvements which they are raising funds to construct. Contrary to the Mobility Plan, the City has that burden and has not met it.

*Page 74:* The Report indicates that the Mobility Fee Benefit District includes areas beyond the current City limits, including the unincorporated areas deemed enclaves within the current City limits, adjacent to the City. The rationale for this approach is a recognition that travel does not start and stop at municipal boundaries. As stated, there is no authority for the City to impose a mobility fee or impact fee outside of its jurisdictional boundaries.

*Page 86:* The City plays no role between the County and developers in relation to County-issued Impact Fee Credits, with no authority to convert the County's Impact Fee Credits to City Mobility Fee Credits.

*Page 91 and Map I:* The City proposes to fully mitigate its impact on the County's transportation system by incorporating County roadways that lie adjacent to City boundaries in its benefit area. This does not mitigate

the fast-paced growth of PSL and its impacts on the regional transportation network for which the County is responsible.

*Appendix L*: The description of the “improvements” is very broad, but it does not appear that all of the proposed improvements or enhancements are capacity related.

Sincerely,



Leslie Olson, AICP

cc: Chairman Chris Dzadovsky, St. Lucie County Board of County Commissioners  
Howard N. Tipton, County Administrator  
Daniel McIntyre, County Attorney