

DEVELOPING IMPACT FEES in New Hampshire

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Impact Fee Principles

- Authorized by NH RSA 674:21, V
- Assessment to new development
- Pays for capital facilities only
- Proportionate to demand on capacity
- Of reasonable benefit to development
- Recoupment of investment allowed
- Impact fee ordinance required to enable
- Cannot use to fund “upgrades”
- Time limit on appropriation for capital project

Impact Fees in New Hampshire

- **Original legislative authority in 1991**
- **Amendments in 2004**
- **About 65 municipalities with ordinances**
- **Impact fees vary significantly by:**
 - **Local demographics and market**
 - **Cost, quality, scale of facilities built**
 - **Amount of capacity- related investment**
 - **Facility standards per unit of development**

Two major parts of the fee process:

• **Impact fee ordinance**

- Enables the process and principles
- Defines “new development”
- Establishes waivers and criteria for them
- Administrative procedures, appeals, refund of fees

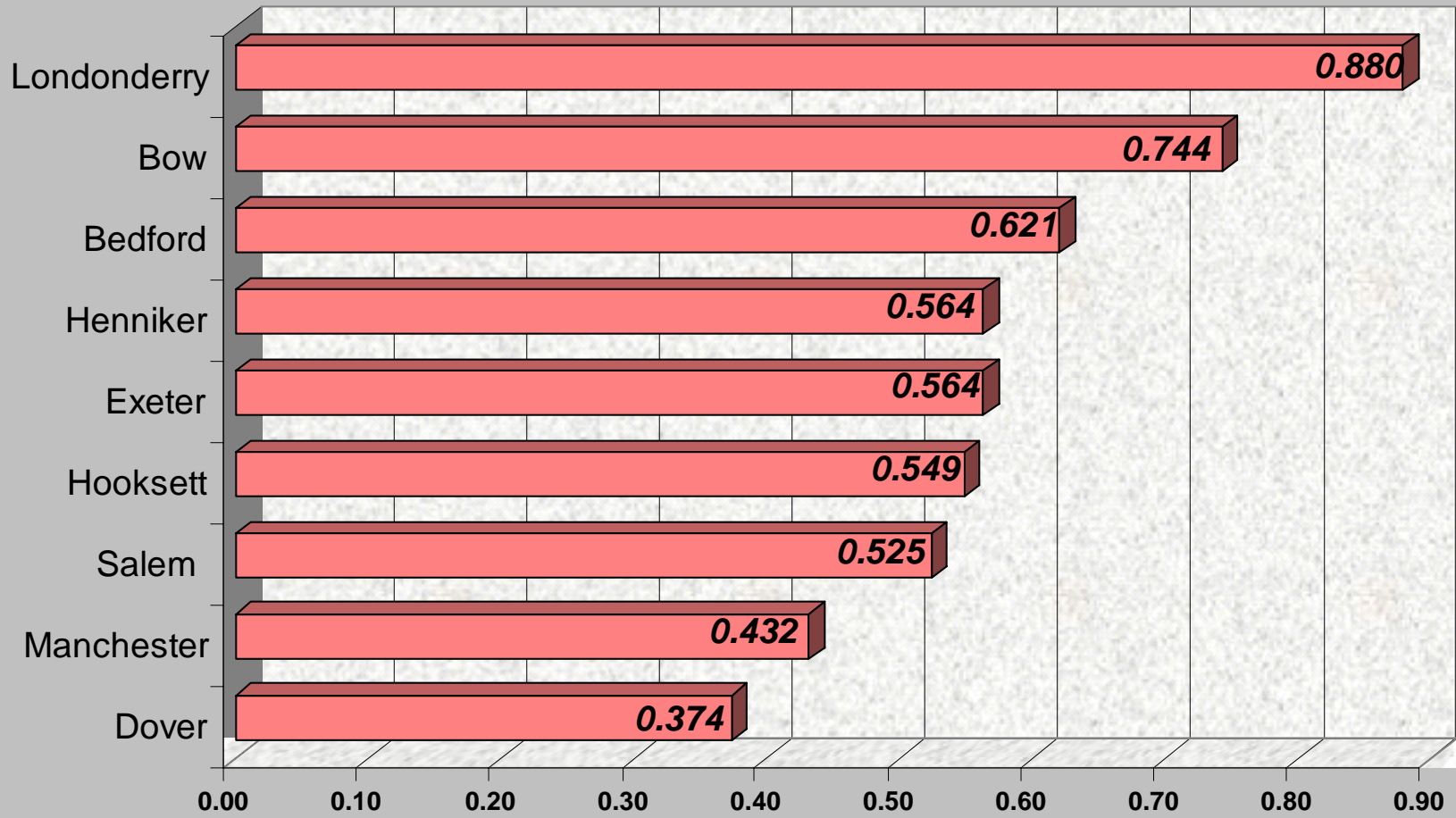
• **Basis of assessment**

- Cost basis for fee
- Proportionality
- Schedule of fees to be assessed
- Adopted by board under general authority of the IFO
- Provides advance notice of fees in a published schedule

Fundamental principles

- Fee is proportionate to impact
- Impact = system capacity used
- Cost per unit of capacity
- Consumption or use will vary by:
 - Type of capital facility funded
 - Residential vs. non-residential use

VARIATION IN AVERAGE PUBLIC SCHOOL ENROLLMENT PER SINGLE FAMILY HOME



Off-site exactions vs. fees

● **EXACTIONS**

- Water, Sewer, Drainage, Highway only
- Can include “upgrades”
- More specific benefit to particular development
- Enable under subdivision regulations
- Case by case review

● **IMPACT FEES**

- Assess to all new development
- Improvements of general benefit to new development
- Enable by ordinance
- Pre-determined in an impact fee schedule
- Generally not negotiable though waivers may apply

Conditions for assessment

- Capital facility exists or will be built
- Capacity to serve new development
- Costs known or reasonably estimated
- Proportionate cost allocated by sector
 - Residential vs. non-residential
 - Proportionate to demand
- Basis excludes pre-existing needs

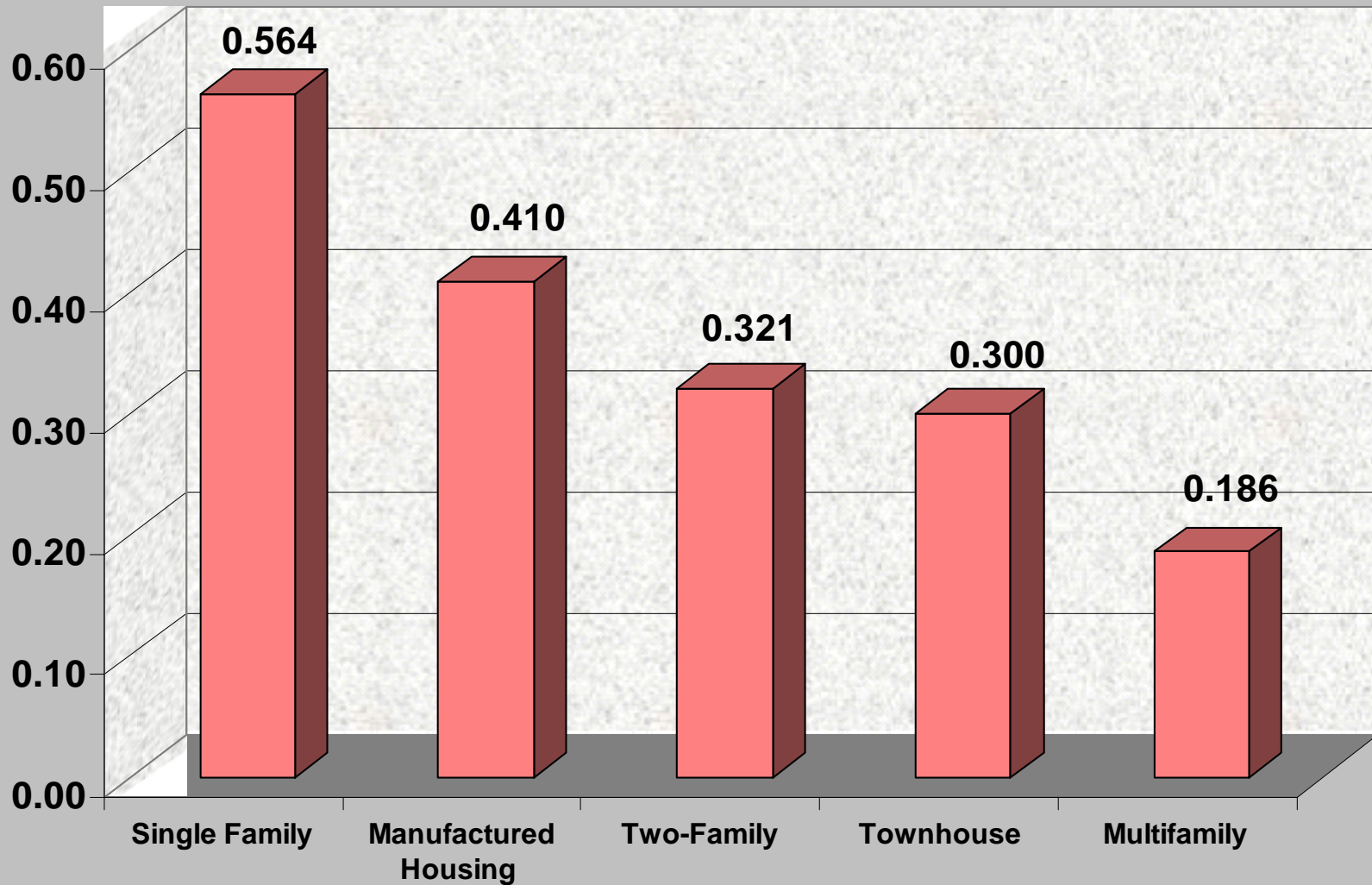
Generic impact fee formula

- Total capital cost to serve new development
- grants or donations applied
- = net local capital cost of facility
- X % allocation by land use
- = cost by land use sector (residential/non-residential)
- / unit of demand (population, d.u.'s, GPD, floor area)
- = capital cost per unit of new development
- X number of units in development
- payments by development to rectify deficiency
- = impact fee assessed

Proportionality measures

- Schools: enrollment per unit
- Population and local jobs
- Calls for service
- Floor area of buildings
- Metered service (water)
- Share of assessed valuation

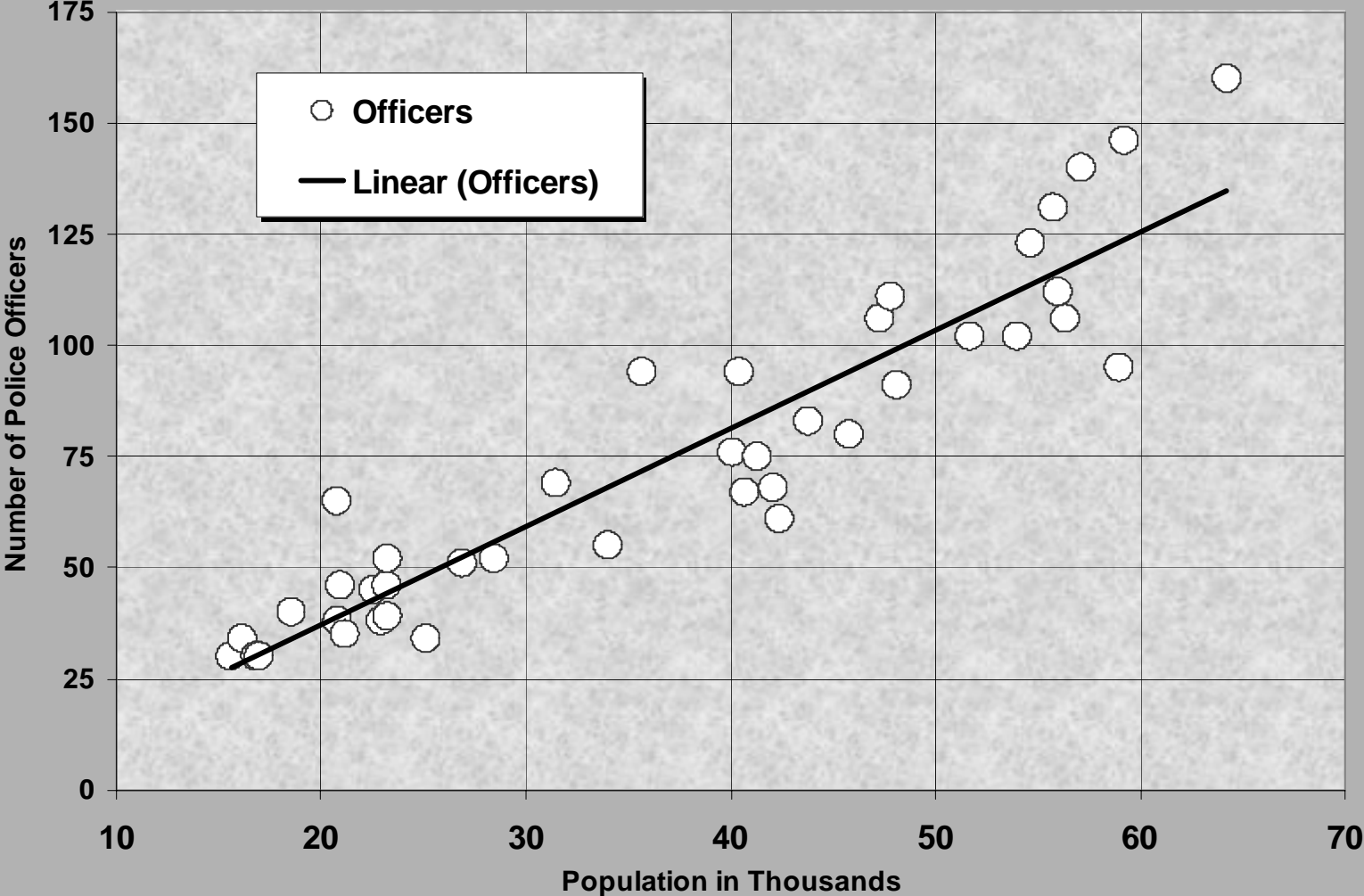
AVERAGE SCHOOL ENROLLMENT PER HOUSING UNIT IN HENNIKER: 2004



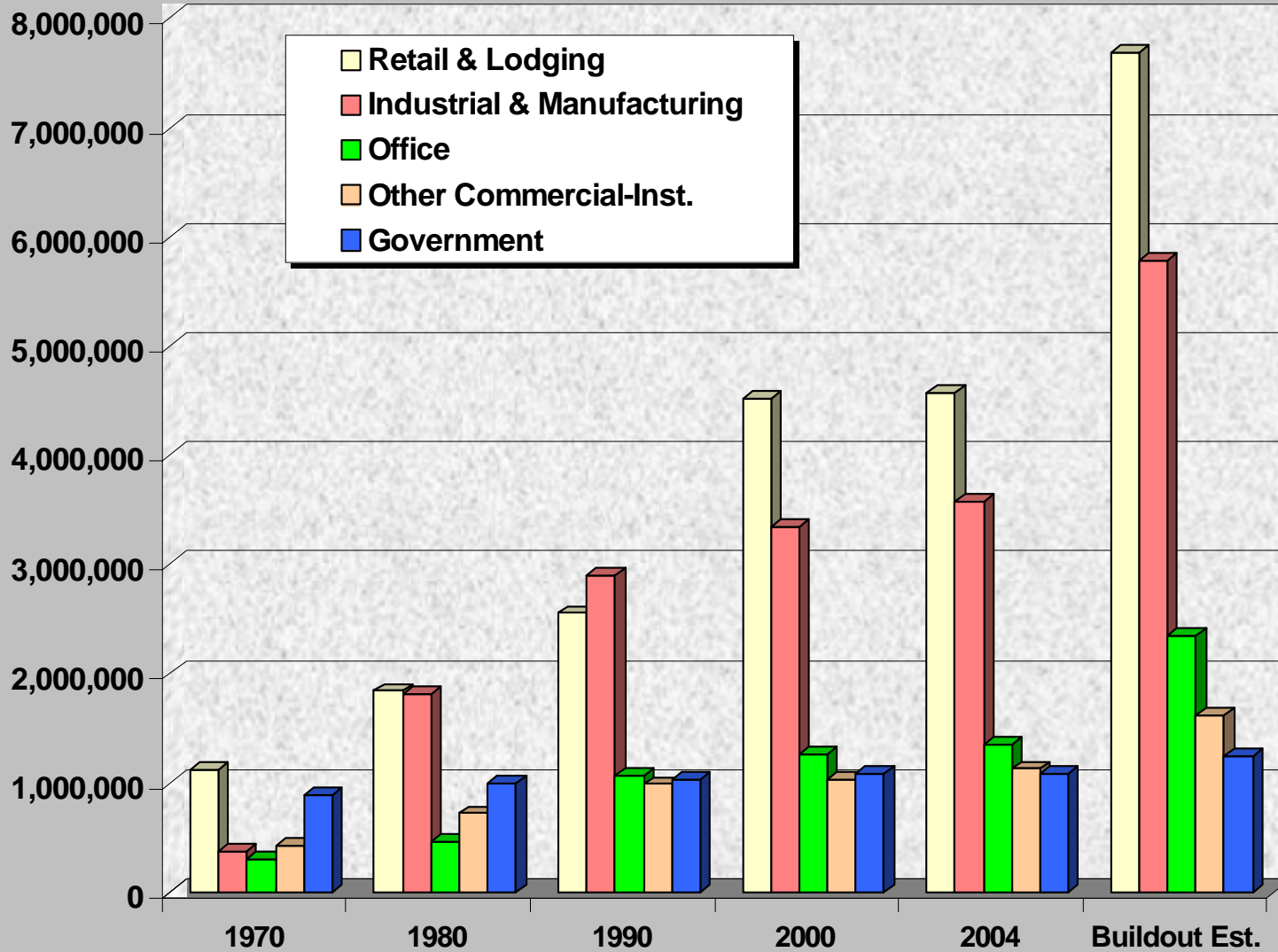
Source: Consultant tabulation of enrollment and assessment data. Note: manufactured housing excludes trailers in campgrounds

Police Officers by Size of Community

Number of Police Officers By Size of Community
Selected Cities and Towns with Population 15,000+ in ME, NH, MA



GROSS FLOOR AREA OF NON-RESIDENTIAL DEVELOPMENT IN SALEM



Buildout assumption includes the development of a net increase of 7 million square feet. Distribution of new development land use approximated using 2004 distribution of non-residential floor area by zoning district

Salem residential impact fees

FEES APPLICABLE TO GENERAL RESIDENTIAL DEVELOPMENT

Type of Structure	Impact Fee Per Dwelling Unit			Total
	Schools *	Recreation*	Public Safety	
Single Family Detached	\$3,991	\$1,003	\$538	\$5,532
Townhouse	\$2,277	\$1,048	\$821	\$4,146
Duplex & 2-Unit	\$2,917	\$963	\$701	\$4,581
Multifamily 3+ Units	\$1,547	\$667	\$709	\$2,923
Mobile Homes	\$2,433	\$549	\$519	\$3,501

** School and recreation fees may be waived for qualifying age-restricted housing*

Information you can develop

- **Baseline vs. future conditions**
- **Master Plan**
 - Community facilities
 - Recreation
 - Transportation
- **Capital Improvement Program**
 - Existing vs. planned capacity
 - Upgrades vs. growth-related needs

Data collection

- 1. Supply & condition**
- 2. Demand on facility**
- 3. Capital cost or value**

1. Supply and condition data

- Building floor area by function
- Public safety calls by type/address
- Design capacity or population
- Architectural or engineering studies
- Road inventory
 - Collectors vs. local streets
 - Sections by paved width; condition

2. Measure Demand for Service

- **Standards for service or facility**
 - Recreation facilities or acres per 1000 persons
 - Library floor area per capita
 - School GFA per pupil capacity
 - Plant capacity as GPD
- **Existing utilization of capacity**
 - Population; jobs
 - Enrollment in schools
 - GPD water use; wastewater treatment
 - Number of calls for service
 - By address
 - By land use

3. Document Capital Costs

- Land acquisition cost
- Site development cost
- Construction; A & E cost
- Debt service schedules
- Capital facilities value
- Non-impact fee funds applied

Issues in fee development

- Lack of facility plans
- Not assessing non-residential uses
- Use of funds vs. fee basis
- Lack of waiver criteria in ordinance
- Unrealistic expectations

Impact Fees

- **Contract with an impact fee consultant**
- **Evaluate the existing infrastructure capacity and the infrastructure needs of the municipality and fairly apportion the needs between impacts of future growth and the municipality's share of such impacts.**
- **Development and maintenance of an impact fee methodology is a task that is generally beyond the capability of most planning boards.**

Impact Fees

- **What planning board wants to run the risk of having its impact fee methodology invalidated when it can delegate the responsibility for developing and updating the impact fee methodology to a professional with training and expertise in this field?**
- **Need to periodically review any data to confirm that the impact fee assessments are rational**

Impact Fees

- **Impact fee ordinance should delegate the administration of the ordinance to the planning board and should authorize the planning board to adopt, review and revise the impact fee methodology and the actual fees assessed pursuant to that methodology.**
- **When must impact fees be spent after which there is an obligation to return them if not spent?**
 - **By 6 years.**

Impact Fees

- **Can impact fees be collected while a growth management ordinance is being applied to the same project?**
 - **Once an impact fee has been assessed or paid, any subsequent adoption of a growth management ordinance could not apply to limit issuance of development permits for that project.**

Impact Fees

- When the project is approved subject to impact fees, because these fees arise from the authority of the zoning ordinance, is the project subject to impact fee revisions?
 - Impact fees are not afforded the same rights protection that other plans are afforded by RSA 674:39 for substantial completion of the improvements as shown on the plan has occurred.
- For projects that gained substantial completion prior to this 6/7/04 amendment to RSA 674:39, it is unclear at this time whether the New Hampshire Supreme Court would find this exemption of impact fees from vested rights, once substantial completion has occurred.

Impact Fees

- Does the planning board have the authority to negotiate an impact fee assessment with an applicant in the instance where the board has yet to adopt an impact fee.
 - Yes.
- How does the Planning Board/Town address the collection of impact fees when the fee increases?
 - RSA 674:39, II makes clear that the legislature did not intend to extend an exemption beyond this initial 4 year period for impact fee changes that are adopted thereafter.

Impact Fees

- **What if the application has been approved and recorded, but active and substantial development did not occur per the terms of the approved plan within 12 months of approval?**
 - **Active and substantial development must begin within 12 months of approval, otherwise, you have no exemption ticket, and must pay any subsequently adopted fee increase.**