

**BOARD OF COUNTY COMMISSIONERS**

Mayor Heather Carruthers, District 3  
 Mayor Pro Tem David Rice, District 4  
 Kim Wigington, District 1  
 George Neugent, District 2  
 Sylvia J. Murphy, District 5

**Suzanne A. Hutton, County Attorney\*\***

Robert B. Shillinger, Chief Assistant County Attorney \*\*  
 Pedro J. Mercado, Assistant County Attorney \*\*  
 Susan M. Grimsley, Assistant County Attorney \*\*  
 Natileene W. Cassel, Assistant County Attorney  
 Cynthia L. Hall, Assistant County Attorney \*\*  
 Christine Limbert-Barrows, Assistant County Attorney  
 Derek V. Howard, Assistant County Attorney  
 Lisa Granger, Assistant County Attorney

**Office of the County Attorney**

1111 12<sup>th</sup> Street, Suite 408  
 Key West, FL 33040  
 (305) 292-3470 – Phone  
 (305) 292-3516 – Fax

\*\* Board Certified in City, County & Local Govt. Law

October 21, 2011

**Via facsimile: (305) 664-5414**

Theron C. Simmons, Esq.  
 Vernis & Bowling of the Florida Keys, P.A.  
 81900 Overseas Hwy., 3<sup>rd</sup> Floor  
 Islamorada, FL 33036

**Re: Key Largo Fire Rescue & EMS District, Impact Fee & Sales Tax Revenue**

Dear Mr. Simmons:

This is further to our telephone conversation of the other day as well as my letter to you dated October 4, 2011.

Monroe County's fire protection/EMS impact fee is collected in unincorporated areas pursuant to Resolution 492-1992, a copy of which is attached. All impact fees are collected and placed in funds depending on districts where they are generated. Attached please find a spreadsheet showing the amounts budgeted and spent in FY 2011 for fire hydrants. (Please note that the impact fees for District 2 are not shown as the fund balances for that district are below the cost of one hydrant.) The impact fees are not collected or reported for the specific geographic area covered by the Key Largo Fire Rescue & EMS District. However, Monroe County Fire Rescue requested that our Building Department, which collects the fees, provide a breakdown using fee receipts showing fees collected for your client's area only. I am informed that the County collected \$2,862.06 in FY 2011 and \$36,238.81 over the past six fiscal years in the geographic area corresponding to the area comprising the Key Largo Fire Rescue & EMS District.

I am informed by Chief Callahan in Monroe County Fire Rescue that seven (7) of the twenty-four (24) fire hydrants that were installed by the County during the past fiscal year as part of an installation project were placed in Key Largo, and that the locations for these hydrants were determined in consultation with former Assistant Chief Jay Ogden of the Key Largo Volunteer Fire Department. Captain Steve Zavalney of Monroe County Fire Rescue has also had further more recent conversations about fire hydrants with Chief Sergio

Theron C. Simmons, Esq.  
Vernis & Bowling of the Florida Keys, P.A.  
October 21, 2011  
Page 2

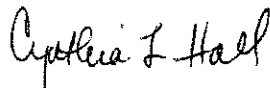
Garcia. For reference, I am informed that the amount spent in the District as part of that project was \$49,000, which is approximately 35% higher than the amount collected in the District over the past six years.

You raised the issue of entering into an interlocal agreement with the County regarding the use of impact fees. As you can see, the fund balances for fire/EMS impact fees are not likely to permit another installation project in the near future. Nevertheless, the County is happy to continue consulting with the District on the location of future hydrants. To the best of my knowledge, the County does not have any other similar interlocal agreement in place. However, if you wish to propose an interlocal agreement, please feel free to forward it to me for review. I will be happy to review the language with my client.

With respect to the discretionary surtax, by statute, the surtax can only be imposed and collected after a referendum passed by the voters of the County and ordinance passed by the BOCC. As a practical matter, all of the surtax proceeds are currently committed to finishing the wastewater project in the County. Of the \$6.1MM available from the infrastructure surtax in FY 2011, \$3.8MM was spent in Key Largo for the Key Largo Wastewater Treatment District. To the best of my knowledge, until the BOCC changes direction, the entirety of the infrastructure surtax is earmarked for completion of the wastewater system throughout the Keys. I am also unaware of any requirement that the County turn over any portion of the tax collected to the District.

Please feel free to contact me if you need any further information.

Very truly yours,



Cynthia L. Hall  
Assistant County Attorney

Encl.

Cc: Chief James Callahan, Monroe County Fire Rescue

Fire Hydrant Impact Fees Expenditures FY11

Original Cost Center	Project Cost Center	District	Area	FY11 Fund Balance	FY11 Budgeted Expenditure	Number of New Hydrants	Price per Hydrant	Expenditures	Current Balance
31501	31506	1	Lower Keys	\$70,605.00	\$69,825	8	\$9,975	\$59,850	\$10,755
31503	31507	3	Upper Keys	\$120,734.00	\$98,000	14	\$7,000	\$98,000	\$22,734
31504	31510	4	Key Colony Beach	\$23,838.00	\$15,950	2	\$7,975	\$15,950	\$7,888

FILED FOR RECORD

RESOLUTION NO. 492-1992

'92 NOV 13 10:55

A RESOLUTION OF THE COUNTY OF MONROE, FLORIDA, ESTABLISHING A SCHEDULE OF FIRE PROTECTION/EMS FACILITIES IMPACT FEES TO BE IMPOSED ON NEW DEVELOPMENT PURSUANT TO ARTICLE X, IMPACT FEES OF THE MONROE COUNTY CODE, TO ENSURE THAT FIRE PROTECTION/EMS FACILITIES WILL BE ADEQUATE TO ACCOMMODATE THE DEMAND GENERATED BY NEW DEVELOPMENT AT THE ADOPTED LEVEL OF SERVICE AND TO ASSIGN THE COSTS OF FIRE PROTECTION/EMS FACILITIES PRO RATA TO NEW DEVELOPMENT IN PROPORTION TO THE NEEDS GENERATED BY NEW DEVELOPMENT.

---

WHEREAS, Monroe County, Florida has experienced rapid population growth during the 1980's which has strained the adequacy of existing sources of funds to provide fire protection/EMS facilities to meet the demands created by new development; and

WHEREAS, the Monroe County Comprehensive Plan indicates that the growth rate will continue and place significant demands on the County to provide fire protection/EMS facilities to support new development at the adopted levels of service; and

WHEREAS, new development must be accompanied and supported by adequate fire protection/EMS facilities in order to maintain the adopted levels of service for fire protection/EMS facilities; and

WHEREAS, Monroe County provides fire protection/EMS facilities serving both permanent and seasonal residents of the unincorporated area; and

WHEREAS, Monroe County does not have an existing Fire Protection/Emergency Medical Services impact fee currently in effect; and

WHEREAS, Monroe County has identified a need to explore the necessity of a Fire Protection/Emergency Medical Services impact fee to be applied to new development; and

WHEREAS, Monroe County has authorized a comprehensive analysis of a Fire Protection/Emergency Medical Services impact fee; and

WHEREAS, the analysis has been completed and is included in a Report titled "Fire Protection/EMS Facilities Impact Fee Report for Monroe County, Florida," October 1992; and

WHEREAS, the above-mentioned Report and the Impact Fee Procedural Ordinance (Section 9.5-490 of the Monroe County Land Development Regulations) and the Fire Protection/EMS Facilities Impact Fee Resolution have been reviewed by the Planning Commission in public workshops on the following dates:

July 10, 1992  
July 27, 1992  
August 7, 1992  
August 12, 1992  
September 2, 1992  
September 16, 1992; and

WHEREAS, the above-mentioned Report, Ordinance and Resolution were reviewed by the Monroe County Development Review Committee on September 14 and 23, 1992; and

WHEREAS, the above-mentioned Report, Ordinance, and Resolution were reviewed by the Planning Commission at a duly noticed public hearing held on October 1, 1992, at which public comments were received and considered; and

WHEREAS, after the close of the Public Hearing on October 1, 1992, the Planning Commission made a recommendation to the Board of County Commissioners to adopt the Impact Fee Procedural Ordinance and the Fire Protection/EMS Impact Fee Schedule Resolution; and

WHEREAS, the above-mentioned Report, Ordinance and Resolution and the Planning Commission's recommendations were reviewed by the Board of County Commissioners at two (2) duly noticed public hearings held on October 5, 1992 and October 16, 1992, at which public comments were received and considered; and

WHEREAS, the Board finds that due to the establishment of fire protection/EMS facilities impact fee subdistricts and limitations on the appropriation of fire protection/EMS facilities impact fee funds, the fees have a "rational nexus" to and provide benefit to those developments on which the fees are imposed; and

WHEREAS, by this Resolution, the Board of County Commissioners adopts a level of service represented by the provision of a total of 53 equipped fire/EMS station bays to serve the projected residential and nonresidential development in 2010; and

WHEREAS, the Board finds that the adopted level of service standards are applicable to existing and new residential and nonresidential development; and

WHEREAS, it is the intent of the Board that, by the establishment of Fire Protection/EMS Facilities Impact Fees, new development in the County will pay its pro rata share of the fire protection/EMS facilities required to serve such new development at the adopted level of service standards; and

WHEREAS, it is the intent of the Board that the fire protection/EMS facilities financed with impact fees be consistent with the Comprehensive Plan; and

WHEREAS, it is the intent of the Board that impact fees be one technique within an overall County growth management program to implement the goals, objectives and policies of the County Comprehensive Plan; and

WHEREAS, the Board has considered the matter of financing of fire protection/EMS facilities, the need for which is attributable to new development and hereby finds and declares that an impact fee imposed upon new development to finance fire protection/EMS facilities, the need for which is reasonably related to new development, furthers the public health, safety and welfare of Monroe County and its residents; and

WHEREAS, the impact fees adopted pursuant to this Resolution are based upon the data and calculation methodology incorporated in the "Fire Protection/EMS Facilities Impact Fee Report for Monroe County, Florida" (October 1992); and

WHEREAS, the Board therefore finds and deems it advisable to adopt the Monroe County Fire Protection/EMS Facilities Impact Fee, as hereinafter set forth; NOW, THEREFORE,

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA THAT:

The following Fire Protection/EMS Facilities Impact Fee Schedule shall be adopted and imposed on new residential and nonresidential development in the unincorporated area of the County and within the boundaries of participating municipalities:

Section 1. Pursuant to and in accordance with Article X, Impact Fees of the Monroe County Code, the Fire Protection/EMS Facilities Impact Fees to be imposed on new development shall be as set forth in the Fire Protection/EMS Facilities Impact Fee Schedule, attached hereto and incorporated herein by reference.

Section 2. Definitions. For purposes of this Resolution, the following words and terms shall have the following meaning, unless another meaning is clearly intended:

- (a) "Emergency Medical Services or EMS" means and refers to all facilities and associated capital equipment used to provide emergency medical services and life support services within unincorporated Monroe County.
- (b) "Fire Protection" means and refers to all facilities and associated capital equipment used to provide fire suppression/protection and rescue services within unincorporated Monroe County.
- (c) "Adopted Level of Service, Fire Protection/EMS" shall mean the level of service provided by a total of 53 equipped fire station bays to the total projected residential and nonresidential development in the unincorporated County in 2010.
- (d) "Demand" means and refers to the increment of fire protection/EMS facilities that new development consumes (measured in dwelling units or per 1,000 square feet of nonresidential development as shown on the Fire Protection/EMS Impact Fee Schedule, Attachment A to this Resolution).
- (e) "Fire Protection/EMS Facilities" means and refers to amounts spent or authorized to be spent in connection with the acquisition of land and/or facilities, planning, legal, fiscal, economic, engineering, administrative services, financing, construction, equipping of facilities or equipment to provide development fire protection/EMS services and to enable the County to carry out any other authorized fire protection/EMS services.

Section 3. Establishment of a Fire Protection/EMS Facilities Impact Fee District and Subdistricts.

- (a) District. The Fire Protection/EMS Facilities Impact Fee District shall include the unincorporated area of Monroe County and all municipalities within Monroe County participating in the Monroe County Fire Protection/EMS Facilities Impact Fee System.
- (b) Subdistricts. The Fire Protection/EMS Facilities Impact Fee District shall be divided into three (3) Fire Protection/EMS Impact Fee Subdistricts as provided by Sec. 9.5-490.2(E)(1) of the Monroe County Land Development

Regulations and on the Impact Fee District Map referenced in Sec. 9.5-490.2(E)(3) of the Monroe County Land Development Regulations.

Section 4. Calculation of Impact Fee. The County shall calculate the Fire Protection/EMS Facilities Impact Fee due in accordance with the procedure set forth in Sec. 9.5-490.3(B) of the Monroe County Land Development Regulations and pursuant to the impact fee per demand unit as shown in the Fire Protection/EMS Facilities Impact Fee Schedule (Attachment "A") in effect at the time of building permit issuance.

Section 5. Trust Funds Established.

- (a) There is hereby established a separate Fire Protection/EMS Facilities Impact Fee Trust Fund account for each Fire Protection/EMS Facilities Impact Fee Subdistrict.
- (b) Funds withdrawn from these accounts must be used solely in accordance with the provisions of Sec. 9.5-490.4(B) and (C) of the Monroe County Land Development Regulations; provided, however, that funds in any Fire Protection/EMS Facilities Impact Fee Trust Fund account may be expended for any facilities located within any Fire Protection/EMS Facilities Impact Fee Subdistrict which provide benefit throughout the unincorporated County.
- (c) All fire protection/EMS facilities impact fee funds shall be utilized for fire protection/EMS facilities within the Monroe County Fire Protection/EMS Facilities Impact Fee District.

Section 6. Liberal Construction. The provisions of this Resolution shall be liberally construed to effectively carry out its purposes in the interest of public health, safety, welfare and convenience.

Section 7. Severability. Should any sentence, clause, part or provision of this Resolution be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the Resolution as a whole, or any part thereof other than the part declared to be invalid.



Section 8. Effective Date. This Resolution shall become effective concurrent with, but not before, the effective date of the Impact Fee Procedural Ordinance Text Amendment.

The Clerk of the Court is hereby directed to send a certified copy of this Resolution to the Florida Department of Community Affairs.

PASSED AND ADOPTED by the Board of County Commissioners of Monroe County, Florida, at a regular meeting of said Board held on the 16th day of October, A.D., 1992.

Mayor Harvey	<u>Yes</u>
Mayor Pro Tem London	<u>Yes</u>
Commissioner Cheal	<u>Yes</u>
Commissioner Jones	<u>Absent</u>
Commissioner Stormont	<u>Yes</u>

BOARD OF COUNTY COMMISSIONERS OF  
MONROE COUNTY, FLORIDA

By: Wilhelmina Harvey  
MAYOR/CHAIRMAN

(SEAL)

ATTEST: DANNY L. KOLHAGE, CLERK

By: Dickie L. Connelly  
DEPUTY CLERK

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY  
BY [Signature]  
Attorney's Office

## ATTACHMENT "A"

## FIRE PROTECTION/EMS FACILITIES IMPACT FEE SCHEDULE

<u>Type of Development</u> <sup>(1)</sup>	<u>Impact Fee Per Development Unit</u>
Residential Development (per dwelling unit)	\$105
Recreational Campground (per space)	\$105
Nonresidential Development (per 1,000 sq.ft.)	\$ 64
Hotel/Motel (per 1,000 sq. ft.)	\$ 64

Note:

(1) All development subject to the revised Fire Protection/EMS Facilities Impact Fee shall pay the fee amount indicated for the appropriate specific development type, or, if no specific development type is applicable, for the appropriate general development type based on the definitions of residential development and nonresidential development in Section 9.5-490 of the Monroe County Land Development Regulations.

MONROE COUNTY  
CAPITAL IMPROVEMENT PHYSICAL ENVIRONMENT PROJECTS BY DISTRICTS

PROJECTS	Fund #	Account #	Project #	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	Total
Physical Environment Projects	304	23000	PE0000							2,891					2,891
Wastewater Treatment	304	23000	PE0002												426,616
-Jabro Inv (Keys Citizens Group)	304	23000	PE0002			19,000		409,439		10,201	2,461	4,515			19,000
Wastewater Treatment - MCDC	304	23000	PE0202												408,600
Stock Island Waste Water	304	23000	PE0002			418,473									418,473
Stock Island Waste Water	304	23000	PE0300				3,487,236	261,506	85,357	735,713				3,942	4,573,754
<b>Total Stock Island WW</b>						418,473	3,487,236	261,506	85,357	735,713	0	0	0	3,942	4,992,227
Bay Point Land Purchase	304	23000	PE0002			24,500									24,500
Bay Point Land Purchase	304	23000	PE0304												0
Bay Point portion of FKAA Inter	304	23000	PE0002			100,562									100,562
Conch Key Portion Interlocal	304	23000	PE0002			59,553									59,553
Bay Point & Conch Key WW	304	23000	PE0402						1,373,260	484					1,373,745
<b>Total Bay Point &amp; Conch Key</b>						184,615	0	0	1,373,260	484	0	0	0	0	1,558,360
FKAA Interlocal	304	23000	PE0602												5,000,000
KL FKAA Inter Trailer Village	304	23000	PE0002			182,857									182,857
Key Largo Land Purchase	304	23000	PE0002			826,234									826,234
Key Largo Ogden to FKAA	304	23000	PE0002		222,462	137,564	12,286								372,312
Key Largo Trial Village Interlocal	304	23000	PE0302						731,428						731,428
Key Largo Park FKAA Interlocal	304	23000	PE0303					16,450	12,859						29,309
KL District Startup	304	23000	PE0306												0
Key Largo WW Interlocal	304	23000	PE0601						1,000,000	2,771,427	3,229,608	69,840			7,070,875
<b>Total Fund 304</b>						222,462	1,146,655	12,286	1,744,287	2,771,427	3,229,608	69,840	0	0	8,212,815
Key Largo WW Treatment Dist	308	23004	PE0805							1,886,432	3,967,018	3,839,523			9,692,973
<b>Total Key Largo WW Project</b>						222,462	1,146,655	12,286	1,744,287	2,771,427	3,229,608	1,956,072	3,967,018	3,839,523	18,905,787
Big Coppitt Design/Build	304	23000	PE0401					40,000							47,283
Big Coppitt Wastewater	304	23000	PE0701							4,999,750					4,906,913
Budgeted Transfer to 310 BC/WW	304	86502						40,000	0	7,283	4,999,750	907,163	0	0	5,954,196
<b>Total Fund 304</b>								40,000	0	7,283	4,999,750	907,163	0	0	11,493,088
Big Coppitt Wastewater	310	2300*	PE***										13,004,408	898,151	25,995,647
<b>Total Big Coppitt Ww Project</b>								40,000	0	7,283	4,999,750	13,911,571	11,493,088	898,151	31,349,843

9/30/2011

MONROE COUNTY  
CAPITAL IMPROVEMENT PHYSICAL ENVIRONMENT PROJECTS BY DISTRICTS

PROJECTS	Fund #	Account #	Project #	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	Total
Duck Key Interlocal	304	23000	PE0403						30,000	292					30,292
Duck Key Waste Water Project	304	23000	PE0702								1,500,000				1,500,000
Budgeted Transfer to 311 DKWW	304	86502							30,000	292	1,500,000	0			1,500,000
Total Fund 304									30,000	292	1,500,000	0			3,030,292
Duck Key Waste Water Project	311	23003	PE0804						30,000	292	1,500,000	740,410	88,091	1,142,379	1,970,880
Total Duck Key WW Project									30,000	292	1,500,000	740,410	88,091	2,842,379	5,001,172
Cudjoe/Summerland	304	23000	PE0703								2,000,000	719,354	1,000,000	(27,150)	3,692,204
Cudjoe/Summerland	306	23004	PE0902								2,000,000	719,354	4,046,589	(1,206,651)	1,839,938
Total Cudjoe/Summerland WW											2,000,000	719,354	4,046,589	(1,233,801)	5,532,142
Breeswept Estate Culvert	304	23000	CB0400				38,153	7,462	7,462	1,771	21,333	68,980	187,151		324,649
Total Breeswept Est. Culvert							38,153	7,462	7,462	1,771	21,333	68,980	187,151	0	324,649
Shark Key Culverts	304	23000	PE0601							295					295
Total Shark Key Culverts										295					295

TOTAL DISTRICT PROJECTS FUNDED BY ONE CENT INFRASTRUCTURE FUND 304, 2007 INFRASTRUCTURE REVENUE BONDS FUND 308, SPECIAL WW INFRASTRUCTURE FUNDS FUND 310 & 311

PO Box 1026  
Key West, FL 33041-1026

Telephone: (305) 292-3470  
Facsimile: (305) 292-3516



# County Attorney Fax

**To:** Theron C. Simmons, Esq.      **From:** Cynthia L. Hall, Esq.

---

**Fax:** (305) 664-5414      **Pages:** 4

---

**Phone:** (305) 664-4675      **Date:** 10/21/2011

---

**Re:** Key Largo Fire Rescue & EMS District      **CC:**

---

**Urgent**     **For Review**     **Please Comment**     **Please Reply**

**Comments:**