

ONALASKA SCHOOL DISTRICT

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Onalaska, Washington 98570-9604

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March 24, 2008

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Lewis County Planning Commission and Hearings Examiner
c/o Kernen Lien, Senior Planner
2025 NE Kresky Avenue
Chehalis, WA 98532

Re: Birchfield Fully Contained Community / March 25, 2008 Public Hearing

Dear Examiner and Planning Commissioners:

The Onalaska School District is submitting this letter for your consideration at the public hearing on March 25, 2008 regarding the Birchfield Fully Contained Community.

As you know from prior correspondence and testimony, the Onalaska School District is not opposed to the proposed Birchfield development, provided that the District receives impact fees to pay for a portion of the costs that will be incurred to build facilities that are necessary to serve students from the proposed development.

The Onalaska School District Board of Directors has adopted the position that new development should pay a portion of the cost that the Onalaska School District will incur for facilities to serve the development. In furtherance of the Board's position, the Onalaska School District (and the Centralia, Napavine, Toledo and Winlock School Districts) retained Educational Service District 112 legal counsel, Marnie Allen, to prepare a draft school impact fee ordinance as well as six year capital facility plans and school impact fee calculations. In addition to her work for the Lewis County School Districts, Ms. Allen represents other school districts across the state, including all nine school districts in Clark County Washington with regards to Capital Facility Plans, school impact fees, SEPA and land use matters. She has been involved in school impact fee work for ten years and has extensive experience working with counties, cities and school districts on the development and implementation of school impact fee programs.

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BY: *Am*

Ms. Allen assisted the Onalaska School District with the preparation of a six year Capital Facility Plan. The Capital Facility Plan includes data that supports the imposition of school impact fees in the amount of \$2,902 per single family home, using a standard school impact fee formula. In December, 2006, the Onalaska School District Board of Directors adopted the six year Capital Facility Plan and school impact fees. The Capital Facility Plan and impact fee calculation is based on the draft school impact fee ordinance that Ms. Allen prepared for the Lewis County School Districts. A copy of the draft ordinance is enclosed.

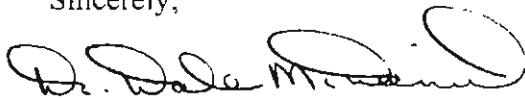
At the request of the Lewis County School Districts, Ms. Allen shared the draft School Impact Fee Ordinance with Birchfield representatives and the County's legal counsel. We understand that this ordinance may be considered for adoption by the Lewis County Commissioners.

With regards to the Birchfield Fully Contained Community, the Onalaska School District supports the condition of approval that requires Lewis County to adopt a school impact fee ordinance. More specifically, the District requests that the Birchfield Fully Contained Community be required to pay school impact fees in an amount that is approved and recommended by the Onalaska School District Board of Directors (currently \$2,902), pursuant to an adopted Lewis County School Impact Fee Ordinance and the District requests that Lewis County adopt the enclosed ordinance.

While the District recognizes that the Hearings Examiner and Planning Commission do not have the authority to adopt the school impact fee ordinance (it must be adopted by the County Commissioners), the District respectfully requests that you recommend that the County Commissioners consider adopting the enclosed ordinance. School impact fees, even in the amount of \$2,902 per single family home, will not pay all the costs to build schools to serve students from new housing. However, they will provide a valuable and needed revenue source and will help offset a portion of the tax burden for existing homeowners.

For the above reasons, the Onalaska School District is seeking school impact fees and supports conditions of approval that require the payment of school impact fees in the amount that is approved and recommended by the Onalaska School District Board of Directors. Thank you for considering our request. We appreciate your interest in adopting decisions that support quality schools.

Sincerely,

A handwritten signature in black ink, appearing to read "Dr. Dale McDaniel". The signature is fluid and cursive, with a large loop at the end.

Dr. Dale McDaniel, Superintendent
Onalaska School District

cc: Lewis County School Districts
Marnie Allen, Legal Counsel

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BEFORE THE BOARD OF COUNTY COMMISSIONERS OF LEWIS COUNTY, WASHINGTON

AN ORDINANCE ADOPTING A NEW)
CHAPTER 18.20 OF THE COUNTY CODE)
ESTABLISHING A SCHOOL IMPACT FEE)
PROGRAM AND ADOPTING)
PARTICIPATING SCHOOL DISTRICTS)
CAPITAL FACILITIES PLANS AND IMPACT) ORDINANCE NO. _____
FEES, INCORPORATING THEM INTO THE)
CAPITAL FACILITIES ELEMENT OF THE)
LEWIS COUNTY COMPREHENSIVE LAND)
USE PLAN, PURSUANT TO THE)
PROVISION IN CH 18.20)
)

WHEREAS, the State of Washington enacted the Growth Management Act in 1990 amending RCW 82.02 to authorize the collection of school impact fees from new development under specified conditions, including the adoption of a GMA Comprehensive Plan as defined in RCW 36.70A;

WHEREAS, Lewis County has adopted a GMA Comprehensive Plan with the most recent update adopted in 2006;

WHEREAS, the Lewis County Comprehensive Plan includes a Capital Facilities Element;

WHEREAS, the Capital Facilities Element applies to public facilities, including public K-12 schools;

WHEREAS, the Lewis County Board of Commissioner's finds that development activity Lewis County will create additional demand and need for public K-12 school facilities;

WHEREAS, the Lewis County Board of Commissioner's finds that new growth and development should pay a proportionate share of the cost for public K-12 school facilities to serve new growth and development through the assessment of school impact fees, and where appropriate, may be required to mitigate impacts on schools under the State Environmental Policy Act (Chapter 43.21 RCW) or the State Subdivision Act (RCW 58.17.060 and RCW 58.17.110);

WHEREAS, Lewis County is authorized by RCW 82.02 to impose school impact fees on new development that creates additional demands on public K-12 school facilities and to collect the impact fees on behalf of school districts that serve Lewis County;

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WHEREAS, school impact fees may be collected and spent for public facilities that are included in school district capital facilities plans that are adopted by the Lewis County Commissioner and incorporated into the Lewis County Comprehensive Plan;

WHEREAS, the Centralia, Napavine, Onalaska, Toledo and Winlock School Districts ("Lewis County School Districts") have adopted and submitted Capital Facilities Plans that are consistent with this ordinance, which the Lewis County Board of Commissioner's are adopting pursuant to this ordinance and incorporating into the Lewis County Comprehensive Land Use Plan, Capital Facilities Element;

WHEREAS, the Lewis County School Districts 2006 – 2012 Capital Facilities Plans identify the school facilities that are needed to serve new growth and development;

WHEREAS, the Lewis County School District's Capital Facilities Plans contain the Districts' Board of Directors recommendation regarding the amount of the school impact fees for single family and multi-family developments;

WHEREAS, the recommended school impact fees have been calculated in accordance with the impact fee formula being approved in this ordinance and represent the fair and proportionate share of the cost new growth and residential development should pay for their impacts on public school facilities; NOW THEREFORE,

BE IT ORDAINED by the Board of Lewis County Commissioners that:

1. A new Chapter 18.20, School Impact Fees, of the Lewis County Code is hereby enacted to provide as follows:

18.20 School Impact Fees

18.20.010 Findings and authority. The Lewis County Board of Commissioners finds and determines that new growth and residential development in Lewis County will create additional demand and need for school facilities throughout the County and the Commission finds that new growth and development should pay a proportionate share of the cost of new school facilities needed to serve the new growth and development. Therefore, pursuant to Chapter 82.02 RCW the Lewis County Board of Commissioners adopts and enacts Chapter 18.20 of the Lewis County Code to assess school impact fees on new residential development within any school district in Lewis County that has adopted a six-year capital facilities plan that complies with this chapter. The provisions in this chapter shall be liberally construed in order to carry out the purposes of the Commission in establishing the impact fee program. The

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provisions in this chapter do not preclude the County from requiring new development to mitigate its impacts on schools pursuant to the State Environmental Policy Act (Chapter 43.21 RCW) or the State Subdivision Act (RCW 58.17.060 and RCW 58.17.110) and any limitations contained therein.

18.20.020 Definitions. The following words and terms shall have the following meanings for the purposes of this ordinance, unless the context clearly requires otherwise. Terms otherwise not defined herein shall be defined pursuant to RCW 82.02.090, or given their usual and customary meaning.

“Building permit” means an official document or certification which is issued by the County’s building official and which authorizes the construction, alteration, enlargement, conversion, reconstruction, remodeling, rehabilitation, erection, placement, demolition, moving or repair of a building or structure.

“Commission” means the Board of County Commissioners for Lewis County, Washington.

“County” means Lewis County, Washington.

“Development activity” means any construction or expansion of a residential building or structure that could create additional demand and need for school facilities.

“Development approval” means any written authorization from the County which authorizes the commencement of a development activity.

“District” means any school district that provides public education to students in Lewis County and that has adopted a six-year capital facilities plan that complies with the provisions in this Chapter 18.20 of the Lewis County Code.

“Encumbered” means to reserve, set aside, or otherwise earmark the impact fees in order to pay for commitments, contractual obligations, or other liabilities incurred for public facilities.

“Feepayer” is a person, corporation, partnership, an incorporated association, or any other similar entity, or department or bureau of any governmental entity or municipal corporation commencing a land development activity which creates the demand for additional capital facilities, and which requires the issuance of a building permit.

“Impact fee” means a payment of money imposed by the County on development activity pursuant to this chapter as a condition of granting development approval in order to pay for the school facilities needed to serve new growth and development.

“Impact fee” does not include a reasonable permit fee, an application fee, the administrative fee for collection and handling school impact fees, or the cost of reviewing independent fee calculations.

“Multi-family housing” includes attached dwelling units with more than two units, such as apartments, triplexes, and manufactured or mobile homes in a manufactured or mobile home park.

“Owner” means the owner of record of real property, or a person with an unrestricted written option to purchase property; provided that if the real property is being purchased under a recorded real estate contract, the purchaser shall be considered the owner of the real property.

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“Project improvements” mean site improvements and facilities that are planned and designated to provide service for a particular development or users of the project, and are not system improvements. No improvement or facility included in a capital facilities plan adopted by the Commission shall be considered a project improvement.

“Schools” include any primary or secondary public school or support facility operated by a school district whose boundaries include areas in Lewis County.

“Single family homes” includes detached single family homes, condominiums, duplexes and mobile homes or manufactured homes on individual lots.

“System improvements” mean school facilities that are included in the County’s capital facilities plan and are designed to provide service to service areas within the community at large, in contrast to project improvements.

18.20.030 Eligibility for school impact fees. Any District serving the County shall be eligible to receive school impact fees when the Commission adopts the District’s capital facilities plan and incorporates it into the County comprehensive plan; provided that, any District requesting adoption of its capital facilities plan and collection of school impact fees shall submit documentation that the District has requested every other city or county that it serves to adopt a school impact fee or mitigation program.

18.20.040 Capital facilities plan requirements. (1) A District’s capital facilities plan shall be adopted and updated by the District at least once every two years, and shall contain the following elements:

- (a) The District’s standard of service describing the way in which it determines capacity for its facilities;
- (b) The District’s capacity over the next six years based upon an inventory of the district’s facilities and the district’s standard of service;
- (c) A forecast of future needs for school facilities based upon the District’s enrollment projections;
- (d) A six-year financing plan component, updated as necessary to maintain at least a six-year forecast period, for financing needed school facilities within projected funding levels; and
- (e) Application of the formula set out in Section 18.20.050 based upon information contained in the capital facilities plan. Separate fees shall be calculated for single-family and multifamily types of dwelling units, based upon the student generation rates determined by the district for each type of dwelling units.

18.20.050 School impact fee component. School impact fees shall be calculated using the following formula: $SIF = [CS (SF) - (TC) - (SM)] \times A - FC$.

- (1) “SIF” means the school impact fee.

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(2) "CS" means the cost of each type of facility improvement listed in the District's capital facilities plan attributable to new growth divided by the cost of the improvement. Type of facility improvement means elementary school, middle school and high school.

(3) "SF" means student factor. The student factor is the number of students typically generated from one residential unit for each type of school facility.

(4) "SM" means state match. State match is that amount the District anticipates will be received from the state towards school construction costs. The state match component of the formula is that amount representing the per student amount of state matching funds. This is calculated for each type of facility as: student factor times Boechk index (average annual construction cost of a school facility per square foot) times square foot standard per student established by the Office of the Superintendent of Public Instruction (OSPI) times state match percentage (that percentage of the total cost of a school facility funded by state funds). The projected state match for each school district shall be calculated each time the impact fee is revised.

(5) "TC" means tax credit. This is calculated as:

$$TC = \frac{((1+i)^{10} - 1)}{i(1+i)^{10}} \times (AAV) \times (PTL)$$

"i" is the average annual interest rate as stated in the Bond Buyer Twenty Bond General Obligation Bond Index.

"AAV" is the average assessed value for the dwelling unit within the District.

"PTL" is the District's capital property tax levy rate.

The tax credit shall be calculated each time the impact fee is revised.

(6) "FC" means facilities credit. This is the value of any improvement listed in the District's capital facilities plan that provided by the developer.

(7) "A" means an adjustment for the portion of the anticipated increase in the public share resulting from exempt residential development that is prorated to system improvements. This adjustment for school impacts is determined to be 85 percent.

(8) The school impact fees shall be updated in accordance with the adoption of resolutions that adopt an updated District Capital Facilities Plan and impact fees.

(9) The school impact fees shall be collected and remitted to the District in accordance with an interlocal agreement that the District shall enter into with the County.

18.20.060 Assessment of impact fees. (1) No building and/or development permit shall be issued for development activity in unincorporated Lewis County unless the impact fee is paid pursuant to this Chapter.

(2) For development activity that requires a building permit, the impact fee shall be imposed, due and payable at the time of building permit issuance.

(3) For development activity that does not require a building permit, the impact fee shall be imposed, due and payable at the time of other permitting

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requirements, including but not limited to site plan approval, utility permits or occupancy permits.

(4) For mobile home parks, the impact fee shall be imposed, due and payable at the time of site plan approval. A mobile home park that has paid the school impact fee shall not be assessed school impact fees a second time if existing mobile homes are replaced with new mobile homes.

(5) In addition to paying the school impact fee, the feepayer shall also pay an administrative service fee of one percent of the total amount of the impact fee(s), which the County shall retain and use to cover its costs to collect and disburse the school impact fees.

(6) This chapter does not apply to a preliminary plat approved by the County prior to the effective date of this ordinance or to existing mobile home parks. Unless an exemption applies, the County shall not issue the required building and/or development permit unless the impact fees have been paid.

18.20.070 Credits. A feepayer can request that a credit or credits be awarded to him/her for the value of dedicated land, improvements or construction provided by the feepayer if the land, improvements and/or the facility constructed are included within the adopted capital facilities plan or the District makes the finding that such land, improvements, and/or facilities would serve the goals and objectives of the capital facilities plan. The feepayer shall direct the request for a credit or credits to the District. The District shall first determine the general suitability of the land, improvements, and/or construction for the District's adopted capital facilities plan or the board of directors for the District may make the finding that such land improvements, and/or facilities would serve the goals and objectives of the District's capital facilities plan. The District shall forward its determination to the County, including cases where the District determines that the dedicated land improvements and/or construction are not suitable for the District's purposes. The County may adopt the determination of the District and may award or decline to award a credit, or the County may make an alternative determination and set forth in writing the rationale for the alternative determination. In the event the land, improvements and/or facilities are accepted by both the District and the County, the feepayer shall be responsible for supplying an independent appraisal based on objective standards which indicates the fair market value of the dedicated land, improvements and/or facilities. The credit amount shall be applied to the impact fee calculated for the particular development. If the amount of the credit is more than the amount of the impact fee due and owing by the feepayer, neither the District nor the County shall be liable to the feepayer for the difference.

18.20.080 Appeals. (1) Any feepayer may pay the impact fees imposed by this chapter under protest in order to obtain a building permit. Appeals regarding the impact fees imposed on any development activity may only be taken by the owner of the property where such development activity will occur. No appeal shall be permitted unless and until the impact fees at issue have been paid.

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(2) Determinations of the County staff with respect to the applicability of the impact fees to a given development activity or the availability or value of a credit, can be appealed to the Commission pursuant to this section.

(3) Appeals shall be taken within 10 working days of payment of the fee or within 10 working days of the County's issuance of a written determination of a credit or exemption decision by filing with the County a notice of appeal specifying the grounds thereof, and depositing the necessary fee, which is set forth in the existing fee schedules for appeals of land use decisions.

18.20.090 Interlocal agreement. School impact fees will not be disbursed to the District until the District enters into an interlocal agreement with the County providing for submittal of a capital facilities plan, fund administration, report of expenditures, allocation of risk, and other appropriate matters.

18.20.100 Refunds. (1) If the District fails to expend or encumber the impact fees within six years of when the fees were paid unless extraordinary or compelling reasons exist, the current owner of the property on which impact fees have been paid may receive a refund of such fees. The District shall notify potential claimants by first class mail deposited with the United States Postal Service at the last known address of claimants that they are entitled to a refund. In determining whether impact fees have been expended or encumbered, impact fees shall be considered expended or encumbered on a first in, first out basis.

(2) Owners seeking a refund of impact fees must submit a written request for a refund of the fees to the County and/or the District, within one year of the date the right to claim the refund arises, or the date that notice is given, whichever is later.

(3) Any impact fees for which no application for a refund has been made within this one-year period shall be retained by the District and expended on the appropriate public facilities.

(4) Refunds of impact fees under this section shall include any interest earned on the impact fees.

18.20.110 Use of funds. (1) School impact fees:

(a) Shall be used for system improvements that will reasonably benefit school facilities;

(b) Shall not be imposed to make up for deficiencies in school facilities serving existing developments; and

(c) Shall not be used for maintenance or operation.

(2) School impact fees may be spent for public improvements, including but not limited to school planning, land acquisition, site improvements, portables, necessary off-site improvements, construction, engineering, architectural, legal, permitting, financing and administrative expenses, applicable impact fees or mitigation costs, capital equipment pertaining to educational facilities, and any other expenses which can be capitalized.

(3) School impact fees may also be used to recoup public improvement costs previously incurred by the district to the extent that new growth and

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development will be served by the previously constructed improvements or incurred costs.

(4) In the event that bonds or similar debt instruments are or have been issued for the advanced provision of public improvements for which school impact fees may be expended, school impact fees may be used to pay the principal on such bonds or similar debt instruments to the extent that the facilities or improvements provided are consistent with the requirements of this section and are used to serve the new development.

18.20.120 School impact fees – Reductions and Exemptions. The school impact fees set forth herein are generated from the formula for calculating impact fees, also set forth herein. The amount of the impact fees is determined by information contained in the District's capital facilities plan, as appended to the County's comprehensive plan. All new residential developments in that portion of the district located in the County will be charged the school impact fee, except for the following:

(1) Any development activity or project which has submitted a technically complete building permit application prior to the effective date of this ordinance.

(2) Any fee payer that has constructed an improvement or dedicated property for a future school site that is in the capital facilities plan, or any fee payer that enters into a voluntary agreement with the District to mitigate school impacts, may receive a reduction in the school impact fees equal to the value of the improvements, property or voluntary payments that are made. The fee payer shall direct the request for reduction in the fee to the District with a copy to the County. The District shall first determine the general suitability of the land, improvements, and/or construction for the District's adopted capital facilities plan or the board of directors for the District may make the finding that such land improvements, and/or facilities would serve the goals and objectives of the District's capital facilities plan. The District shall forward its determination to the County. The County shall then determine the amount of the reduction that will be awarded to the fee payer. The County's determination shall be based on an independent appraisal, which the fee payer shall submit, establishing the value of the improvements or property.

(3) Development activity that consists solely of:

(a) The replacement of a structure with a new structure of the same use at the same site or lot when such replacement is within 12 months of the demolition or destruction of the prior structure;

(b) The replacement of an existing approved mobile home with a new mobile home;

(c) The alteration, expansion, enlargement, remodeling, rehabilitation or conversion of an existing dwelling unit where no additional units are created and the use is not changed;

(d) The construction of accessory residential structures that will not create impacts on school facilities;

(e) Miscellaneous improvements, including, but not limited to, fences, walls, swimming pools and signs;

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(f) Demolition or moving of an existing structure within the district;
(g) Housing which by restrictive covenant, in a form that is approved by the District, is used exclusively for persons 62 years of age or older. If the development for which approval is sought contains a mix of uses, the impact fee must be separately calculated for each type of use.

(4) Upon application, the developer may request from the County a reduction or elimination of the impact fee based on unusual circumstances in specific cases, provided that the developer's request is supported by studies and data that supports the request.

(5) The impact fees for an exempt development shall be calculated as provided for in this chapter and paid for with other public funds. Such payment may be made by including such amount(s) in the public share of system improvements undertaken by the District.

18.20.120 Existing authority unimpaired. Nothing in this chapter shall preclude the County from requiring the fee-payer or the proponent of a development activity to mitigate adverse environmental impacts of a specific development pursuant to the State Environmental Policy Act, Chapter 43.21C RCW, based on the environmental documents accompanying the underlying development approval process, and/or Chapter 58.17 RCW, governing plats and subdivisions; provided, that, the exercise of this authority is consistent with the provisions of Chapters 43.21C and 82.02 RCW.

2. The following Lewis County School Districts have submitted capital facilities plans and impact fee calculations that comply with the provision of this ordinance, and the same are hereby adopted and incorporated into the County's comprehensive land use plan:

Centralia School District No. 401
Napavine School District No. 14
Onalaska School District No. 300
Toledo School District No. 237
Winlock School District No. 232

3. In accordance with the adopted Lewis County School District Capital Facilities Plans and the provisions in this ordinance, school impact fees in the following amounts are hereby adopted and imposed on residential development:

School District	Fee Amounts	
	Single Family	Multi-Family
Centralia School District No. 401	\$3,500	\$3,500
Napavine School District No. 14	\$4,931	\$4,931
Onalaska School District No. 300	\$2,902	\$0
Toledo School District No. 237	\$2,654	\$869
Winlock School District No. 232	\$2,907	\$0

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4. The Commission Chair is authorized to execute, on behalf of the County, an interlocal agreement for the collection, expenditure and reporting of school impact fees; provided, that such interlocal agreement complies with the provisions of this ordinance.

5. If any portion of the materials adopted herein is found invalid by a Board or Court of competent jurisdiction, the remainder of the provisions shall remain in full force and effect. Further, if such invalidated portion repeals and existing rule or regulation, the replaced rule or regulations shall be reinstated until modified or replaced by the County Commissioners.

6. This ordinance shall become effective five days after its passage and publication as required by law.

PASSED IN REGULAR SESSION THIS _____ day of _____, 2008, after a public hearing was held on _____, 2008, pursuant to Notice published on the _____ day of _____, 2008 in *The Chronicle*.

ATTEST:

**BOARD OF COUNTY COMMISSIONERS
LEWIS COUNTY, WASHINGTON**

Clerk of the Board

Chairman

APPROVED AS TO FORM:

Member

Prosecuting Attorney

Member