



**Why Illinois Municipalities should have a
Comprehensive Financial Plan as a Complement to their
Comprehensive Use Plan**

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Summary

An ongoing problem facing developers and municipalities is funding for municipal infrastructure required to properly manage growth caused by development. This paper includes both a historical look at municipal financing as well as a look at modern and creative methods to fairly apportion off-site¹ infrastructure improvement costs between developers and local government. Additionally, this paper also looks at the importance of Comprehensive Financial Plans and their overall role as a defense mechanism for the imposition of developer fees to cover off-site cost.²

The major sections include:

What is a Comprehensive Financial Plan (CFP) for Local Government?

What is Included in a CFP?

Overview of the Appropriate Role of CFP's in Infrastructure Financing

CFP's as a Roadmap for Financing Future Development

General Municipal Infrastructure Financing Methods

Types of Modern Infrastructure Financing

Conclusion

What is a Comprehensive Financial Plan for Local Government?

Comprehensive Financial Plans (CFP's) are created in conjunction with or as a supplement to a local government's overall comprehensive use plan. Simply put, it is a municipality's plan that incorporates a variety of municipal financing tools needed to pay for the uses set out in the municipality's comprehensive use plan. An important part of a CFP is the utilization of economic analysis to establish an equitable financial relationship with developers for the payment of the off-site infrastructure needed to effectively carry-out the municipality's comprehensive plan without excessively burdening the municipality's general tax base. Such economic analysis coupled with the unique financing tools available to

¹ For purposes of this paper "off-site improvements" are defined as that infrastructure which is needed in any given area to properly manage development but is not within any given plat. It includes items such as; trunk lines, water mains and traffic and street improvements that are not part of any particular subdivision but benefit an entire plan area which thereby benefits more than any single developer.

² For a complete discussion of these topics: See Edward J. Sullivan and Isa Lester, *The Role of the Comprehensive Plan in Infrastructure Financing*, 37 URB. LAW. 1, 53 (2005).

municipalities creates the optimal solution for financing these off-site public improvements that are needed to manage the growth caused by development.

Essentially a CFP pulls all of the financial aspects of a single development; a broader plan area with multiple developments; and even an entire community together into a single comprehensive financing plan that focuses on funding off-site improvements. A quality CFP involves far more than any one of the three key disciplines (Legal, Land Planning, and Finance) involved in economic development. These disciplines are combined to create an equitable and balanced approach to off-site infrastructure improvements required for orderly growth.

A CFP does not replace a Comprehensive Use Plan. It augments this plan and establishes the cooperative financing that is required in today's tight government budgets to make sure that off-site infrastructure has an effective means of being paid for.

What is included in a Comprehensive Financial Plan?

Preparation of a CFP involves several components and each component can be added or deleted depending on municipal need. For purposes of this paper they are briefly outlined below:

- Municipal Ordinance Review and Analysis
- Evaluation and Update of Comprehensive Use Plan
- Evaluation of Annexation Agreements
- Review of Existing and Required Off-Site Infrastructure
- Complete evaluation of all existing public works assessing future development and outlining potential need
- Cost Evaluation
- Evaluation of Peer Communities Exaction Fees to determine Competitiveness³
- Identification of all available financing options for development/infrastructure improvement
- Preparation of Economic Analysis to determine best financial tools
- Assessment of suitability of financing scheme for each particular development

Overview of the Role of Comprehensive Financial Plans (CFP's)

One of the practical but critical benefits of establishing a CFP is the up-front clear communication by municipalities to developers regarding municipal financial requirements for off-site infrastructure improvements. Much like Municipal Use Plans, CFP's are essential to the orderly development of a growing community. As indicated earlier it is important to understand that a CFP does not replace a Comprehensive Use Plan; rather it augments this

³ See attached example of a Peer Group analysis outlining exaction fees charged by other surrounding communities for new development.

plan and establishes the creative and cooperative financing that is required in today's tight government budgets.

Another compelling reason for a municipality to establish a CFP is that by implementing such a local government may reduce its exposure to liability caused by challenges to its fees and the imposition of specific requirements on developers. More practically, establishing a well conceived financial plan that works in conjunction with and carries out the comprehensive use plan often acts as an important development tool. The purpose of a CFP is to act both as a framework for municipal infrastructure financing and an upfront layout for developers regarding costs of doing business in any given community. If a local government acts within the self-imposed limits of its CFP, legal and practical challenges to off-site development financing requirements can effectively be managed. The ultimate goal is to provide economic fairness in the financing of new or upgraded infrastructure, in addition to ensuring constitutionality. By having a uniform plan with a rational and well conceived financing approach; municipalities eliminate the criticism that one developer may have been treated unfairly.

These CFP's can be the basis for coordination of infrastructure financing adding efficiency, predictability and fairness to the process of imposing financial demands on new developments.

CFP's as a Roadmap for Financing Future Development

Providing fiscal reasonableness and predictability requires a thorough CFP. Development of such a plan will require resources upfront but will pay off in the long term. The rate of development and funding for that development will be more stable when developers can predict infrastructure contributions and alternative financing mechanisms to pay for it. Additionally, the plan will lay a legal foundation as a document that indicates municipal rationale and methodology in establishing its CFP. Legal challenges to municipal financing can be avoided and more solidly defended if all parties are aware of expectations up front by way of a published policy created in a CFP. Furthermore, judicial deference is paid to municipalities who properly document and outline their intentions when dealing with upcoming developments.

General Municipal Infrastructure Financing Methods

In general, there are two types of taxes: general property taxes for general revenue and other taxes that fund specific public works and services. These "other" taxes, in particular exactions, which local governments typically use to upgrade or expand infrastructure for new development are widely understood to be premised on local government's police power. An issue exists, however, as to whether these regulatory exactions exceed local government's police power. This idea has been the subject of ongoing debate and litigation thus proving that creation of a CFP is a solid means of defending any potential cause of action.

Types of Modern Infrastructure Financing

With Illinois' cap on property tax increases and diminished or non-existent state and federal infrastructure funding, local governments must become savvier at planning and funding their off-site infrastructure. Modern and more specific infrastructure financing methods are numerous and somewhat complex. Different financing methods are better suited for different stages of development. In developed areas where public facilities need upgrading or expansion, financing methods may include general property taxes, sales taxes, excise taxes, tax increment financing, bonds, motor fuel tax and various types of special taxing districts. In areas of new development, financing may involve subdivision exactions, special taxing districts, impact fees, and excise taxes. Special Taxing Districts are one method that can be utilized for both existing and new area infrastructure requirements. A few alternative revenue sources, including tax increment financing (TIF), are well suited for mixed and partially developed areas. The following is a brief summary of select types of financing.

Tax Increment Financing: (used for redeveloping areas)

- Local governing body approves redevelopment.
- Freezes property taxes and other revenues on that day.
- Redevelopment causes equalized assessed value of property to increase.
- Tax revenue increase.
- The increased property taxes end up paying for the redevelopment.

Special Taxing Districts: (two types of districts exist)⁴

Special Assessments:

- Used to underwrite infrastructure improvements that specifically benefit a particular area or landowner.
- A special assessment district is formed.
- Bonds are issued to pay for the infrastructure improvements.
- Property within the district is charged in proportion to the value received by the improvements.
- These assessments pay for the retirement of the bonds.
 - Can be payable in up to thirty annual installments (plus interest) or in one lump sum.

⁴ See www.nicolosilaw.com for a further in-depth discussion of these topics. Additionally, see attached hereto; Nicolosi & Associates Executive Summary on Special Assessments Financing and Special Service Area Financing.

Special Service Areas:

- Enable certain services to be provided to specific areas within the governing body that benefit only the particular area.
- Allows for funding of a greater variety of improvements than special assessments.
- Bonds are payable from taxes levied only in the area of the improvement based on assessed value.
- All property owners share the improvements costs.
- Unlike a Special Assessment, a special service area tax does not require measurement of the benefit to each property within the district.
- Apportionment is done either on each property's assessed valuation or equally amongst all of the properties within the district.
- Must follow strict set of guidelines for implementation.

Exactions:

- Dedication of land requirement is primary method.
- Can be any requirement that developer gives something to the local government as a condition of development approval.
 - Existing developments: imposed on permit for redevelopment.
 - New development: imposed on subdivision process
- Major disadvantage is that exactions do not have an up front financing mechanism that provides developers and municipalities the necessary cash to make the improvements in advance of receiving the fees.

Common Exactions for Basic Infrastructure:

- Local governments impose exactions to fund basic infrastructure.
- Subdividers of raw land are often required to contribute to cost of expanding water, sewer, school and transportation.
- The developer may have an option to pay a fee, dedicate land, or construct an improvement.

Impact Fees:

- One time fee imposed by local government as a prerequisite for development approval.
- Designed to recover the costs of infrastructure capacity needed to serve new residents of the development.
- Allows local government to accommodate new development without increasing taxes on existing residents.

- Can be levied on any type of permit even if land dedication would not have been appropriate.
- Generally not considered a tax, but an exercise of the local government's regulatory powers.
- Authority for Impact Fees:
 - Police powers
 - Home rule power
 - Standard planning zoning subdivision enabling legislations
 - Enabling legislation expressly authorizing impact fees
 - At least twenty-one states have adopted impact fee legislation

It is clear that local governments have a number of unique means of financing infrastructure development and promote economic growth within their communities. The challenge for many municipalities is using these tools in a comprehensive, fair and coordinated fashion that will withstand legal challenges from unhappy developers.

Conclusion

Local governments would benefit substantially by creating a CFP. With these goals in mind, communities can use this instrument to define the extent of the local government's infrastructure financing from its general fund and from more specific taxes on developers who benefit more directly from the improvements.

The primary purpose of a CFP is to develop a financial plan that can execute the overall use plan. CFP's consider and utilize a variety of different economic development tools uniquely available to municipalities and applies private sector economic analysis to establish a solid consistent financial partnership with developers in the community to accomplish Use Plan objectives. Economic development tools include: tax increment financing (TIF), special service areas, special assessments, annexation agreement terms, intergovernmental agreements, and sales tax rebate agreements. Often the CFP requires a combination of a number of these tools. The CFP will also take into account working with other local governmental agencies (counties, townships etc.) to cooperatively finance and develop off-site infrastructure in any given area. Finally, the plan will serve as a benchmark informing private developers what will be expected from their end.

Essentially, all financial aspects of future development are pulled together in a single comprehensive document. Legal issues, land planning and finance are combined to create a fair and balanced approach to infrastructure development in an effort to carry out orderly growth. Additionally, proper planning can reduce legal challenges down the road to the municipal financing demands.