

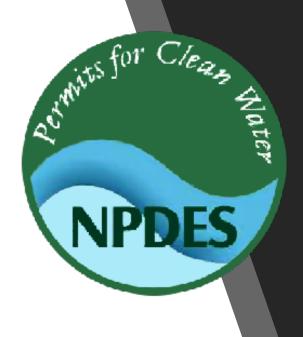
Legal Issues in Stormwater Funding

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User Fee / Stormwater Utility

- Cover costs of "stormwater management programs and structural and natural stormwater and drainage systems"
- Schedule of fees must be made applicable throughout the area of the local government
- No authority to charge fees outside local government boundaries
- Fees schedules may vary by "factors that affect the stormwater drainage system."
- Can't generate profit
- Can't double-dip with other local governments
- Special rules for airports

Stormwater Control Ordinance



- Regulatory power
- If city has NPDES permit, regulatory powers extend to ETJ to extent necessary for city to comply with permit
- Ordinance may
 - ban illicit discharges
 - require deed restrictions and protective covenants to ensure that stormwater management system will be maintained to protect water quality and control water quantity
 - require financial arrangements to ensure that adequate funds are available for the maintenance and replacement costs of the project

Special Assessments



Charges levied against property to pay for a specific public capital project that benefits the properties



Treated like property taxes for collection purposes

Special Assessment Projects

Counties

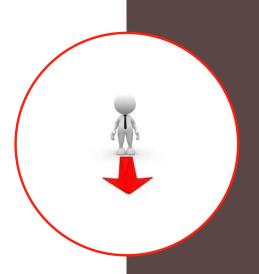
- Water systems
- Wastewater/septic systems
- Beach erosion and flood and hurricane protection
- Watershed improvement, drainage, water resources development
- Subdivision streets*
- Subdivision street lights and lighting

Municipalities

- Streets
- Sidewalks in any public street
- Water systems
- Wastewater/septic systems
- Stormwater and drainage systems
- Beach erosion and flood and hurricane protection

Special Assessment Process

- 1. Unit determines scope and cost of project
- 2. Board adopts preliminary assessment resolution
- 3. Unit publishes notice
- 4. Board holds public hearing
- 5. Board adopts final assessment resolution
- 6. Unit completes project
- 7. Unit prepares preliminary assessment roll
- 8. Unit publishes notice of assessment roll
- 9. Board holds public hearing
- 10. Board confirms assessment roll



Special Taxing Districts

Additional property tax assessed in defined area within municipality or county, to fund specific projects and/or services that benefit the properties in the defined area



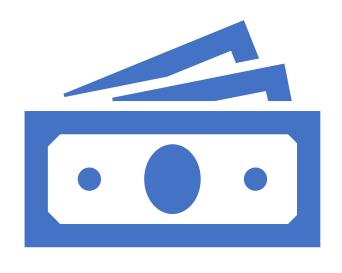
Municipal Service Districts (MSDs)

- Beach erosion control
- Downtown revitalization
- Urban-area revitalization
- Transit oriented development
- Drainage projects
- Sewage collection and disposal systems (including septic systems)
- Off-street parking facilities
- Watershed improvement projects

County Service Districts (CSDs)

- Beach erosion control
- Fire protection
- Recreation
- Sewage collection and disposal systems (including septic systems)
- Solid waste collection and disposal systems
- Water supply and distribution systems
- Ambulance and rescue
- Watershed improvement projects
- Cemeteries

Board Adopts Resolution District **Board sets** Services / Board Public Projects Within 1 Year Notice (county) or Effective on district tax Findings Ordinance July 1 rate (municipality)



Borrowing Money

Traditional borrowing methods

Installment Financings	General Obligation Bonds	Revenue Bonds	Special Obligation Bonds
Fund any capital project	Fund any capital project	Fund only G.S. 159-81 projects	Fund solid waste, water, wastewater, and MSD projects
Pledge asset being financed	Pledge full faith and credit	Pledge revenues from asset	Pledge any unrestricted non-unit levied tax revenues
No voter approval	Voter approval generally req'd	No voter approval	No voter approval
LGC approval sometimes req'd	LGC approval req'd	LGC approval req'd	LGC approval req'd
Debt capacity limitation	Debt capacity limitation	Rate covenants	Rate covenants
Generally repaid with general funds of unit	Generally repaid with general funds of unit	Repaid with revenues from financed asset	Repaid with any unrestricted non-unit levied tax revenues

Specialty Borrowing Methods

Special Assessment Bonds	TIFs (Project Development Financings)	
Fund special assessment projects listed in G.S. 160A, Art. 10A or G.S. 153A, Art. 9A	Fund specified projects in G.S. 159-103 (done in conjunction with private development)	
Pledge special assessment revenue	Pledge incremental property tax revenue due to increased valuation	
No voter approval	No voter approval	
LGC approval req'd	LGC approval req'd	
Covenants	Enhanced security likely required	
Only repaid from special assessment revenue	Only repaid from incremental property tax revenue	

Regulatory Fees

 Can charge reasonable fees to review building plans for stormwater management

 Can charge fees for inspecting stormwater requirements

Cannot earn profit

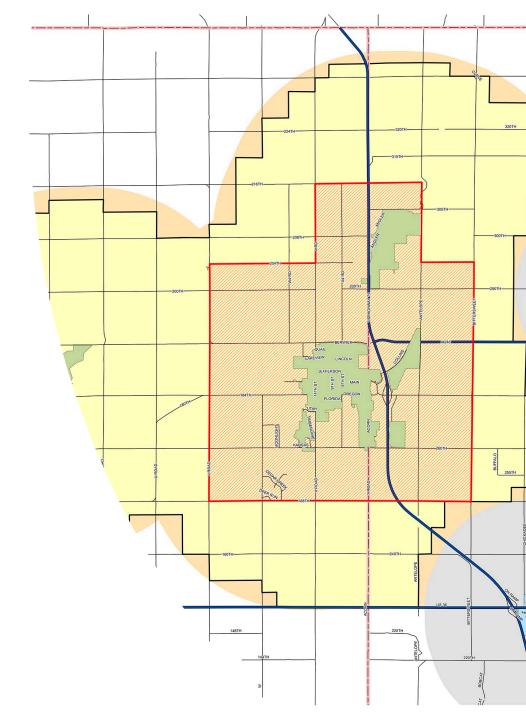




Spending \$ on Private Property



Spending \$ in ETJ





Exactions

Things you make developer or property owner due as condition of development of or improvement to property

Exaction Types



Subdivision Exactions

Allowed on limited basis



Impact Fees

Not allowed



System Development Fees

Water and sewer only

Subdivision Development Exactions

- Infrastructure improvements, land dedications, or funds a local government requires a developer to provide as a condition of development approvals.
- Exactions must be rationally related and roughly proportional to the impacts created by the development.
- G.S. 160A-372 (cities); G.S. 153A-331 (counties)



Private Contracts







Thanks!

	PUBLIC ENTERPRISE CONTRACT	ROADWAY AND INTERSECTION CONTRACT	REIMBURSEMENT AGREEMENTS
Statute	153A-280; 160A-320	160A-309 (city only)	153A-451; 160A-499
Projects	Public enterprises	 Public intersection or roadway improvements 	 "municipal infrastructure" (e.g. water, sewer, stormwater, streets, curbs, sidewalks, traffic control)
Scope	 Cost of design and construction improvements; must be adjacent or ancillary to private land development; cannot pay for improvement required by development ordinances 	 Must be adjacent or ancillary to a private land development project 	 Improvement must be included in the local government's capital improvement plan and must serve the developer or property owner



Collection Issues

Collection Remedies

Stormwater Utility Fee

- Can list on property tax bill (but no property tax collection remedies unless local act)
- Can list on other public enterprise utility bill and order partial payments

Regulatory Financial Arrangement Private Contract

Contractual remedies

