

Naples, Florida

September 6, 1989

LET IT BE KNOWN, that the Board of Supervisors of the Pelican Bay Improvement District met on this date in Continued Session at 3:00 P.M., in the Naples Federal Savings and Loan Building, Fifth Floor, 5801 Pelican Bay Boulevard, Naples, Florida with the following members present:

PRESIDENT:	James D. Hake (Absent)
SECRETARY:	Ramer B. Holtan
	J. Russell Mudge
	James R. Dunwiddie (Absent)
	Walter B. Potter

ALSO PRESENT: Mr. Gary L. Moyer, District Manager; Mr. James P. Ward, Assistant District Manager; Mr. F. Joseph McMackin, III, Attorney for the District; Mr. Tom Peek, Wilson, Miller, Barton, Soll & Peek; Mr. Louis Hoegsted, Westinghouse Communities of Naples, Inc.; Mr. John Petty and Mrs. Barbara Smith, Pelican Bay Improvement District; and Mrs. Jean C. Smith, Assistant Secretary.

AGENDA

1. Roll Call
3. Consideration of Proposed Fiscal Year 1990 Water and Wastewater Budget and Rates.
9. Attorney's Report
 - (a) Proposed Amendments to the Enabling Act.

ROLL CALL

Mr. Holtan called the meeting to order and asked the record show Messrs. Hake and Dunwiddie absent, with all other members present.

CONSIDERATION OF PROPOSED FISCAL YEAR 1990 WATER AND WASTEWATER BUDGET RATES

Mr. Holtan expressed that he felt Mr. Ward, Mr. Mudge and Coopers & Lybrand came up with good ideas regarding the proposed new nine (9) hole golf course connection fee and the background and logic used appears to be quite clear. There are three possibilities and each is backed with good arguments. Mr Holtan explained that he has taken a rough average and it is about \$183,000, which Mr. Ward confirmed. Mr. Holtan moved that the connection fee be set at \$183,000. Mr. Potter seconded the motion. The floor was then opened for discussion.

Mr. Mudge stated that he favored Method No. One (1), which calculated a connection fee of approximately \$223,000, and looking over the past history to see what the connection fee was for the original 18 holes, it appears that the District was really short changed on the connection fee for the golf course at that time. There was an amount of \$300,000 deposited with the District, which covered all connection fees for the golf course at that time. In looking at what the fee would be under these three or four methods, it would appear the connection fee at that time would have been considerably higher. Mr. Mudge indicated that he felt it is somewhat unfair to the other property owners to charge a connection fee for the golf course, based on an average, and it would appear we are leaning over backwards to accommodate the golf course.

Mr. Mudge stated that he is a member of The Club and thinks the District ought to be very careful on the fairness of any fees charged to any of the commercial establishments and the property owners. Mr. Holtan commented that all of the Board Members are members of The Club. Mr. Mudge recommended that the connection fee be established at \$223,392.27.

Mr. Potter stated that in going over the figures he was also in favor of the \$223,000 connection fee for much the same reason as Mr. Mudge.

Mr. Hoegsted stated that the only problem he has with Mr. Mudge's statement is that hindsight is a wonderful thing, but you cannot judge the connection fee today, based on what has happened in the past. Mr. Mudge explained that he feels there are three acceptable methods for determining the connection fees and that he favors Method No. One (1). Mr. Hoegsted stated that because Mr. Mudge feels the golf course has been treated favorably in the past, it should have no impact on the decision today. Mr. Mudge assured Mr. Hoegsted that this decision is not based on the past. Mr. Mudge explained that he had favored the \$265,000 connection fee, which was determined to be a commercial rate.

Mr. McMackin stated he felt this was a legal question and that all three fees were arrived at properly and the Board has the power to select the Method most desirable.

Mr. Ward explained that the first Method is the one Mr. Mudge and he agreed is the most equitable method for determining the connection fee and his recommendation was Method No. One (1).

Mr. Moyer stated he felt it has been a misconception of most

of the community for several years that the original connection fee which was charged to the golf course was a "Sweetheart" deal for the golf course. The way the fee was calculated is exactly the way the fee in Method No. One (1) was calculated, based on the average number of gallons that the golf course was to use times the connection fee that was in effect at that time. When we were doing the rate analysis, Mr. Dunwiddie wanted Coopers & Lybrand to go back to see what the fair connection fee would have been over the life of the agreement, and it ended up being \$305,000. So it really wasn't a "Sweetheart" deal. If there was any beneficial rate given to the golf course, it was the rate per thousand gallons which we only wanted at that time to recover our direct operating costs, without adding a lot of the overhead items. That was a conscious decision of the Board, the connection fee was based on the use, and the District just needed the money up front to make the bond issue work.

Mr. Holtan withdrew the motion for the \$186,000 connection fee.

At this time, Mr. Mudge moved, seconded by Mr. Potter and approved unanimously, that the District charge Westinghouse Communities of Naples, Inc. a connection fee of \$223,392.27 for the new nine hole Golf Course, based upon Method No. One (1) as outlined in Mr. Ward's and Mr. Mudge's Memorandum to the Board, copy attached.

CONNECTION FEES

Mr. Ward stated that at the last Board Meeting, it was requested he and Mr. Mudge review the existing connection fees in light

of Wilson, Miller, Barton, Soll & Peek's Phase III Facilities Expansion Report, to determine if our existing fees are sufficient in order to cover the proposed facilities which are planned and to further determine if the capacity fees the District is currently charging are satisfactory.

Mr. Ward explained that he has provided the Board with a Memorandum and some ancillary exhibits which he would go over and answer any questions. The conclusion we reached was that with the proposed bond issue, in the amount of approximately \$12,060,000, the District's connection fee would need to be approximately \$1,500 per equivalent residential unit. If you look at Exhibit "A", we used Wilson, Miller, Barton, Soll & Peek's Phase III Report, and broke it down into its component parts for potable, sanitary sewer, irrigation and golf course, then we subtracted the excess cash the District has on hand, to estimate the bond issue costs. This would result in a bond issue of approximately \$12,060,000, somewhat less than what Wilson, Miller, Barton, Soll & Peek had originally recommended. Exhibit "B" shows the projected build out schedule that was utilized in the Wilson, Miller, Barton, Soll & Peek Report which anticipates build out of the system, and shows how many units will be connected each year, how many we will have in total and what the capacity of the system will be each year, for the different component parts, potable, wastewater, distribution and the irrigation system. Exhibit "C" is the projected twenty-year debt service and capacity charge schedule which takes each Fiscal Year of the District and estimates what the projected yearly debt service is going

to be for the existing bonds and for the proposed bonds and our fixed operating costs, which is a part of our capacity fee and for each component part of that system breaks down the estimated monthly capacity charge for the residents of Pelican Bay. Exhibit "D" is the schedule that is very similar to the schedule that Coopers & Lybrand utilized in their original Utility Rate Study which determined the connection fee of \$2250.00. This exhibit shows how many units the District will have reserved in each of the different portions of the system and how much reserved debt will be attributable to those units, and then estimates a connection fee for each of the different portions of the system. As you note, the total connection fee shows \$1,491.00, which has been increase by 10% in order to anticipate any shortfalls in terms of number of units that will be coming on line during the year. The final page of Exhibit "D", the Connection Fee Justification Schedule, shows, based upon a \$1,500 per unit connection fee, how much we would receive each year in connection fees, how much debt that we need to pay each year, the yearly difference and the yearly interest income we would earn and the cumulative effect of the \$1,500 connection fee. In effect, what it is telling you is the District is beginning to realize certain economies of scale within the community because of the size we are now building to, and the main reason the connection fee goes down from what it currently is, is because of the fact that we are building the system out faster than we had originally anticipated. As units come on line quicker, it means the connection fee will be somewhat lower.

The final page, Exhibit "E", shows what the projected

capacity fees will be for the District's potable, wastewater, irrigation and golf course system for the next twenty years, and you will notice there are not significant differences in those numbers, they go up very slightly each year and only go up because of the fact that fixed operating costs go up slightly, and that tells you that even with the issuance of this new debt, you are getting some very good economies of scale that are occurring within the District, by the District proceeding with its own expansion of this facility. I think this is an important point, i.e., it is telling you that your rates and charges you are estimating for the next few years are going to be fairly constant with what they currently are, versus the County's projected increase of 10% this coming year and 10% the following year.

Mr. Mudge stated that this will be very helpful in later discussions with the County. In total, these rates drop from \$24.00 in the year 1990, down to \$19.00 in the year 2006. The District is building a facility here with an economy of scale that is going to produce an attractive rate. This exercise is going to be very helpful. Mr. Ward stated that the question arises as to whether the District needs to do anything with its connection fees. Mr. Ward's recommendation at this time would be not to change the connection fees and leave them at the current levels. He stated that this analysis shows that the existing connection fees are sufficient to realize the revenue the District needs in order to pay for the proposed bond issue. Mr. Mudge noted that the District can always reduce the fees sometime in the future, when the District has a better handle on the costs.

At this time, Mr. Mudge moved, seconded by Mr. Potter, and approved unanimously, that the District remain with the current connection fee structure and schedule the September 20, 1989 meeting as a Public Hearing for the rates and the Fiscal Year 1990 Water & Sewer Budget.

PROPOSED AMENDMENTS TO THE ENABLING ACT

Mr. Holtan asked Mr. McMackin to outline the steps necessary to bring this amendment before the Legislature.

Mr. McMackin confirmed with Representative Mary Ellen Hawkins' Assistant, Mrs. Kradick, that there is still a chance for the District, if the District moves quickly, to be put on the agenda of the Special Session of the Legislature in November. The District had originally planned on getting on the Special Session for October, but the Governor wants to use this session exclusively for the issue of "Right to Life". The mechanics are that we would create a list of proposed amendments to the District Enabling Act. These would be approved by the Board of Supervisors and first presented to Representative Mary Ellen Hawkins. Mrs. Hawkins would then gather together a Legislative Delegation which would be composed of herself, Senator Dudley and the member of the House of Representatives from LaBelle. These three would review the proposed Amendments to the Enabling Act. There would then be a Notice of Public Hearing published in the local newspaper and at the Public Hearing, the Board and members of the public would have the opportunity to speak for or against the proposed amendments.

After hearing public comments, the Delegation would then vote

on the amendments and whether they wished to sponsor them in the Legislature. If this is the case, they are then sent to the Legislature Counsel, which will put these amendments in the proper legislative language for submission to the Subcommittee on the House that reviews and approves local government legislation. The Subcommittee would then approve or disapprove the Legislation to go to the floor of the State Legislature to be voted on. Mr. McMackin advised that the State Legislature usually does not overrule the local legislative delegation in these issues of Special Districts, as presumably after the Public Hearing and if the Legislative Delegation looks favorably on the amendments then it usually is a fairly straight forward matter.

Mr. Holtan asked who would formally write up the legislation. Mr. McMackin replied that the Florida Legislature has a group of attorneys who put this in the language the Legislature wishes to see. Mr. Holtan asked if the Board would have the opportunity to see this wording before it goes to the Legislature. Mr. Ward explained that Mr. McMackin can actually prepare the Legislation for submission by Representative Mary Ellen Hawkins to the Committee. Mr. McMackin stated that it was his intention to prepare the wording as directed by the Board, but even if it comes from the District's Attorney, the legislative Attorneys may still make some grammatical changes.

Mr. Holtan indicated that he was in favor of the changes, as proposed and at this time suggested that the items not in favor be discussed.

Mr. McMackin noted that there was one item that needed to be

discussed, i.e, the amendment to Section 3, Sub-paragraph 6, Page 165 "Increasing the Compensation of the Supervisors". He advised matter is pending in the Legislature and that if voted on favorably, will not be effective until October 1st of this year.

Mr. Holtan asked for any further comments on these amendments. Mr. McMackin addressed Section 4, which in his opinion is the most crucial. Mr. McMackin advised that since the last meeting, he and Mr. Ward have had the opportunity to draft the amendments which had been presented at the last meeting. He explained that his proposal was to have the District and the Collier County Commission both vote on this matter and that it would require both legislative bodies to abolish the District. There are several ways of doing this. Mr. Ward thought of deleting "the County Commission of Collier County" and just putting in the Board of Supervisors of Pelican Bay Improvement District and to take the County out of this amendment altogether. Mr. McMackin explained that he preferred the mutual agreement as it would seem less onerous to the County. Then, the Board would not be saying that we decide, but rather would be saying that the County and the Board decide, which seems to be a little more palatable. Mr. McMackin explained that he did not like "in agreement with", but still has not come up with the proper wording, but the intent is that by an affirmative vote of the Commission and the Board of Supervisors, the District could be merged with or absorbed by the County. Mr. McMackin stated that he would draft the language whereby an affirmative vote of the County Commission and the Board of Supervisors, pursuant to applicable legal authority, shall decide what

will happen.

Mr. McMackin stated that another alternative to Section 4 is simply to delete it from the Act so that there would be no mandatory provision for winding down the business affairs of the District or, in other words, eliminate Section 4 so that the District's continuance is at the pleasure of the Legislature. Mr. Moyer advised that this runs against current State policy. Mr. Moyer explained that Chapter 190 is the current Community Development District Legislation in effect in this State. Pelican Bay's Act was a predecessor to Chapter 190, but Chapter 190 clearly gives counties or local government the right to take over certain powers of Special Districts when the County Commission feels it is in the best interest of not only the County but the residents within the District. He advised there is a finding of fact that local governments have to go through before they can take over certain powers. If you take that out, it will probably not be at the local delegation level that there would be a problem, but when it gets to Tallahassee, it goes to the House Community Affairs Committee and the Senate Community Affairs Committee, whose job it is to make sure that local legislation is consistent with State policy. Out of everything discussed, the one most consistent with the current expression of "Legislative Policy" is making it a bilateral arrangement rather than a unilateral arrangement. Mr. McMackin stated that in Chapter 190 it is the District who decides whether or not it should incorporate. If the District was a Chapter 190 District and was at build out and had completed its legislative mandate, the Board then could take a plebiscite to see whether the residents of

Pelican Bay wanted to incorporate as the City of Pelican Bay. He advised the District currently does not have this power under its Enabling Act.

Mr. McMackin stated that most of the other suggestions came from District staff and advised these amendments had been discussed with the District's Financial Advisor, Mr. Diamond, as many of them were applicable to bond issues.

Mr. Mudge suggested that Mr. McMackin set the Supervisor Fees to concur with the Florida law.

Mr. Moyer explained that there is nothing in the Pelican Bay Improvement District Act which established the millage and Article 7 of the State Constitution states that if there is not a State Legislative Cap imposed, then a referendum is needed to establish the cap. There are provisions for counties and cities which establish the (10) mil cap, within the Constitution, but not with Special District's, except by referendum. One of the ways to address this is, is for the Board to tie it back to the Community Development Legislation, which permits three (3) mils for mandatory powers, and two (2) mils for optional powers. Mr. Moyer advised the District could simply amend its Act by including this appropriate section of Chapter 190. This, then, would establish the District millage cap. Mr. Moyer further explained that the District has had two referendums to try to establish a millage cap, and in both cases it was rejected by the electorate. The reason for these referendums was to obtain the authorization to use millage for street lights and possibly for the right-of-way maintenance. In theory,

the types of taxes the District levies, i.e., the Special Assessment Benefit Tax and the Maintenance Tax, are not deductible from Federal Income Tax. They are Special Assessments, i.e, land value added taxes. As a practical matter, he explained, most people just send their tax bill to their accountant who deducts the whole tax bill without differentiating the Special Assessment or millage. However, if you were ever challenged by the IRS, they probably would not permit you to deduct Special Assessments. Mr. Moyer offered that if this matter ever become an issue, it would be in this District's best interest to take the general purpose government things the District does, not special assessment related, like right-of-way maintenance, parks and recreation, conservation area maintenance and street lighting and put these all under a millage rather than a special assessment tax. He explained the District came very close both times to having the electorate pass the millage cap. However, he felt in the first referendum the cap was set too high, 10 mils, and thus, it lost by about 10 votes. Also, he did not feel staff did a good job of getting the message out as to the advantages of establishing a millage cap. In conclusion, Mr. Moyer advised that one way to address the millage cap would be to put the District under the Chapter 190 Community Development District millage cap.

Mr. Mudge asked who voted in these referendums. Mr. Moyer responded the registered voters who reside in the District. Mr. Moyer stated that it is really a Board decision whether or not they desire to establish a millage cap or whether they want to use a referendum.

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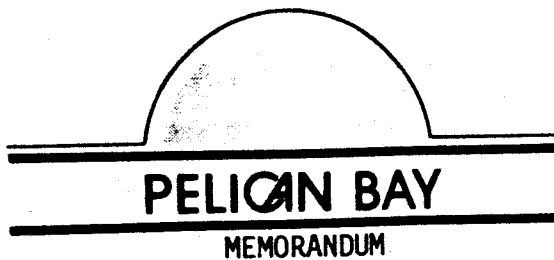
Following further discussion, Mr. Mudge moved, seconded by Mr. Potter, and approved unanimously that Mr. McMackin request that the District's Enabling Act be amended in accordance with the Memorandum of August 16, 1989.

ADJOURNMENT

There being no further business to come before the Board at this time, Mr. Mudge moved, seconded by Mr. Potter and approved unanimously the the meeting be adjourned. Time: 3:30 P.M.



RAMER B. HOLTAN
SECRETARY
PELICAN BAY IMPROVEMENT DISTRICT



PELICAN BAY
MEMORANDUM

TO: Board of Supervisors

FROM: J. Russell Mudge
James P. Ward

DATE: June 9, 1989

SUBJECT: Proposed Connection Fees
Nine (9) Hole Golf Course Addition

The proposed nine (9) hole golf course for Pelican Bay will require the payment of a Connection Fee to the District. However, the amount to be charged for golf courses is not delineated within our current rate schedule, and therefore has required the proposed golf course fees to be reviewed. In connection with this, Mr. Mudge and I have had the opportunity to discuss this with Mr. Paul Cuminsky of Coopers & Lybrand. As you may recall, Paul was the author of the original Coopers & Lybrand study and is familiar with the system. Based upon these discussions, we have identified three alternative connection fees for the golf course as discussed below.

During the review of the proposed fees, the following reports were examined to obtain the necessary data to evaluate the golf course addition to the the system:

- 1) Coopers & Lybrand 9/86 Utility Rate Study
- 2) Coopers & Lybrand 9/87 Updated Rate Schedules
- 3) Coopers & Lybrand 3/87 Irrigation Rate Alternatives

Synopsis of existing Connection Fees:

Connection Fees

Connection fees are structured such that excess plant and line distribution costs are recovered through Connection Fees, and, theoretically, paid by developers, which is then passed on to the homebuyer. Growth is then paying for growth and the District's current customers are not burdened with the cost related to the excess capacity within the utility system.

ATTACHMENT "A"



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Meter Fees

Meter fees cover the cost of installation of the meter as well as the cost of the meter. Accordingly, the District generally installs 5/8" meters which are billed at a standard rate of \$250 per meter. Larger meters fluctuate in cost, due to a number of variables, and the actual cost of installation is the basis for the meter charge.

Use Charges

The District utilizes a capacity/commodity rate structure, which allocates costs between fixed and variable components. Fixed costs represent debt service and operating costs which remain fairly constant, while variable costs include all other costs, such as electric and chemicals, which tend to fluctuate in relation to consumption.

Current Rate Structure

I.	<u>CONNECTION FEES:</u>		
	Group I	\$ 2,980.00/Unit	
	Groups II thru IV	2,250.00/Unit	
	Commercial	12,940.00/Acre	
II.	<u>SYSTEM DEVELOPMENT CHARGE</u>		
	Groups I thru IV	\$ 195.00/Unit	
III.	<u>METER USE FEES</u>		
	Groups I & II	\$ 250.00	
	Groups III, IV & Commercial	Actual job cost	
IV.	<u>USER RATES & CHARGES</u>		
		<u>Minimum Monthly Capacity Charge</u>	<u>Commodity Fee Per 1,000 Gallons</u>
	Potable	\$ 8.05/Unit	\$1.28
	Wastewater	8.82/Unit	.50



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Irrigation		
Group I	\$ 37.79/Unit	.28
Group II	13.15/Unit	.28
Group III	6.57/Unit	.28
Group IV	5.76/Unit	.28
Commercial	13.96/ERC*	.28
Golf Course	3,063.50	.28

* ERC = Equivalent Residential Connection:
5.75 x Gross Parcel Acres

Proposed Golf Course Connection Fees

As discussed above, connection fees are structured such that excess plant and line distribution costs are recovered through connection fees. Since the excess costs cover the potable, wastewater and irrigation system, and the golf course will be utilizing only irrigation service from the District, in determining the proposed golf course connection fees the following assumptions were used:

- Service requested is irrigation only.
- Golf course built its own line distribution system and is not connecting to District's system.
- Maintain consistency with current District's rate philosophy from Copper & Lybrand report.

Based on this criteria, we will discuss three (3) methods of calculating the proposed golf course connection fee.

Method #1

This method allocates the District's existing connection fees into its component parts for potable water, irrigation water, wastewater, existing golf course and line distribution. Then, the expected golf course usage is equated into an ERC and a golf course fee is derived.



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**PELICAN BAY IMPROVEMENT DISTRICT
 CONNECTION FEE ALLOCATION**

Connection Fee (a) \$2,250.00

	<u>Potable</u>	<u>Wastewater</u>	<u>Residential Irrigation</u>	<u>Golf Irrigation</u>	<u>Distribution</u>
Debt Service/Fixed Costs as allocated in Coopers & Lybrand Rate Study as amended 9/1/87 (b)	\$311,296	\$363,038	\$408,080	\$38,968	\$560,065
Present allocation of connection fee (c)	18.51%	21.59%	24.27%	2.32%	33.31%
Connection Fee Per Equivalent Unit (d)	416.56	485.79	546.07	52.14	749.44

- (a) The connection fee for all formal units except single family per Coopers & Lybrands report 9/86, Exhibit VII, (H) Connection Fee.
- (b) The District expenditures as listed in Coopers & Lybrands report 9/87, Exhibit IV, Net Requirements.
- (c) The percentage of funds allocated to each facility in comparison to the total funds expended.
- (d) The percentage of each facility times the connection fee.

NOTES: Calculation of the connection fees for all developments which do not conform to group types or request partial connections, can be assessed according to facilities connected and to usage amounts. Usage amounts are determined by the Coopers & Lybrand report of 9/86, as reserved or as allocated by the District.



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The calculation would be as follows:

Expected usage (gallons per day):	225,000
Coopers & Lybrand usage amount allocation per unit:	550

Connection Fee = $225,000 / 550 \times \$546.07 = \$223,392.27$

Method #2

This method assumes a commercial allocation of 5.75 ERU and multiplies the gross golf course acreage to arrive at a proposed fee.

54 acres x 5.75 ERU = 310.5 ERU
 310.5 ERU (\$2250.00 x 24.27%) = \$169,556.29

Method #3

This final method re-calculates the connection fees derived from Exhibit V of Coopers & Lybrand report of 9/86 excluding excess line distribution debt. This revised connection fee is then multiplied by the percentage of irrigation debt allocated to the system to determine a revised connection fee per unit. Then, to determine the number of equivalent residential units for the golf course the expected irrigation use is divided by allocation per unit.

The calculation is as follows:

Potable (a)	\$ 311,296	29%
Wastewater (a)	363,038	33%
Irrigation (a)	408,080	38%
	<u>\$ 1,082,414</u>	100%

Expected use $\frac{225,000 \text{ GPD}}{550 \text{ GPD}} = 409.09 \text{ units}$
 Allocation per unit

(a) Coopers & Lybrand Rate Study dated 9/87 Ex. V.

Rate Calculation:

$(\$1000 \text{ (a) per Schedule Page 6}) \times 38\% \times 409 \text{ units} = \$155,420.$



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Pelican Bay
 Connection Fee Schedule

<u>Year</u>	<u>Excess Debt Units Service</u>	<u>Buildout</u>	<u>Conn Fee</u>	<u>Total Fees</u>	<u>Excess</u>	<u>Interest</u>	<u>Balance</u>
1987	2,122	493,116	363	1,000	363,000	(130,116)	0 (130,116)
1988	1,759	406,507	479	1,000	479,000	72,493	0 (57,623)
1989	1,280	295,101	362	1,000	362,000	66,899	371 9,667
1990	918	200,361	269	1,000	269,000	68,639	3,517 81,803
1991	649	141,289	216	1,000	216,000	74,711	9,533 166,047
1992	403	88,244	229	1,000	229,000	140,756	18,914 325,717
1993	174	37,807	229	1,000	229,000	191,193	33,705 550,615

Method #4

This final method calculates the Connection Fees based on the commercial rates of the District.

$$(\$12,940.00 \times 54 \text{ acres}) \times 38\% = \$265,500.$$