Rough Proportionality – It’s State Law!

Presentation by:
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Discussion Agenda:

1. Introduction
2. Why are we here?
3. Legal Considerations
4. Roadway proportionality
5. Water and Wastewater proportionality
6. Drainage proportionality
7. Closing Comments
Why Are We Here?
A long time ago, in a galaxy (State) far, far way...

...We ended up with Chapter 212.904 of the Texas Local Government Code.
§ 212.904. Apportionment of Municipal Infrastructure Costs

(a) If a municipality requires as a condition of approval for a property development project that the developer bear a portion of the costs of municipal infrastructure improvements by the making of dedications, the payment of fees, or the payment of construction costs, the developer’s portion of the costs may not exceed the amount required for infrastructure improvements that are roughly proportionate to the proposed development as approved by a professional engineer who holds a license issued under Chapter 1001, Occupations Code, and is retained by the municipality.

(b) A developer who disputes the determination made under Subsection (a) may appeal to the governing body of the municipality. At the appeal, the developer may present evidence and testimony under procedures adopted by the governing body. After hearing any testimony and reviewing the evidence, the governing body shall make the applicable determination within 30 days following the final submission of any testimony or evidence by the developer.

(c) A developer may appeal the determination of the governing body to a county or district court of the county in which the development project is located within 30 days of the final determination by the governing body.

(d) A municipality may not require a developer to waive the right of appeal authorized by this section as a condition of approval for a development project.

(e) A developer who prevails in an appeal under this section is entitled to applicable costs and to reasonable attorney’s fees, including expert witness

(f) This section does not diminish the authority or modify the procedures specified by Chapter 395.

Added by Acts 2005, 79th Leg., ch. 982, § 1, eff. June 18, 2005.

Section 2 of Acts 2005, 70th Leg., ch. 982 provides:

"The change in law made by this Act applies to the approval of a development project that is not finally adjudicated before the effective date of this Act."
Although enacted in 2005, cities are just now beginning to experience the impact of this law (similar to many of our state laws affecting cities).

We have addressed proportionality changes in several DFW cities.

So...what are the issues facing cities?
- How do you measure proportionality?
- Who prepares the analysis or study?
- Is it a study or an approval? How long can the city take to prepare or decide on the analysis?
- Are parks and trails subject to this chapter?
- Does a TIA establish proportionality?
- Who pays for the analysis, study or determination?
What if you already have impact fees under Chapter 395? What if you do not?

- If your subdivision regulations require it (i.e., it is on-site) are you still subject to proportionality?

- Where should your proportionality processes be located?

- How do pre-existing drainage laws affect proportionality requirements?
Legal Issue of Rough Proportionality That Should be Discussed with Your Attorney

- Proportionality is a legal concept that must be translated into a concrete set of rules and procedures
- Every development exaction is subject to test
Development Exactions Preview

- Nexus test: *Nollan*
- Rough proportionality: *Dolan*
  - Adjudicative decisions
  - Proportional to nature and extent of development
  - Individualized (advance) determination

- Flower Mound Case (2005)
  - Off-site perimeter road exaction
  - Disproportionate under Dolan
  - Damages awarded
Proportionality Statute
TLGC sec. 212.904

- 2005 Law implementing *Flower Mound*
- Applies to exactions of land, facilities or fees
- No limitation to off-site improvements
- Applies to all types of facilities
- City engineer initially must make proportionality determination
Proportionality Statute cont’d

- Automatic right of appeal to City Council
  - Council must make decision 30 days after hearing
- Appeal to District or County Court
- City can’t require waiver as condition
- Doesn’t affect authority or procedures under ch. 395
Municipal Responses

- Business as usual: apply exaction standards as written in subdivision ordinance
- Develop proportionality measure and incorporate procedures
- Develop impact fees for one or more facilities and integrate with subdivision exactions
Roadway Proportionality

Presented by: Eddie Haas, AICP
Freese and Nichols, Inc.
Sefko Planning Group
Rough Proportionality Determination
Two Approaches

- Traffic impact assessments (TIA) - Caution!
  - Valuable technical tool
  - Limited to extent of prescribed area
  - Full system impacts not considered

- System analysis
  - Examines off-site impacts
  - Approach akin to impact fee methodology
    - Development of system CIP and its cost to provide
    - Based on growth, determination of unit cost impact
  - Enables structured approaches to all assessments
System-wide Traffic Implication of New Development

- Traffic from new development impacts the roadway system
- Traffic impact not contained to adjacent roadway
- MPO Workplace Surveys and MTP travel statistics document lengths for various land uses and trip types
System Approach
Elements for Proportionality Analyses

- Service Units - Vehicle-Mile
  - Establish system capacity
  - Ability to relate roadway projects to demand
  - Link development to improvements (trip length)
  - PM Peak Hour
  - Establish LOS adequacy
System Approach
Elements for Proportionality Analyses

- Service Units (vehicle-miles)
- Measure of roadway capacity by facility type

### Roadway Facility Vehicle-Mile Lane Capacities

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Source: NCTCOG. Level of Service “D”.

*For Example:*

625 vehicles per hour per lane $\times$ 4 lanes $\times$ 2 miles $=$ 5,000 vehicle-miles
System Approach

Elements for Proportionality Analyses

- Service Units (vehicle-miles)
- Measure of roadway capacity by facility type
- Land Use Equivalency Table
  - Trip Rate (vehicles) – ITE *Trip Generation*
  - Trip Length (miles) – Workplace survey or travel statistics
  - Categorized by land use types
  - Adjusted for primary trip purpose
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<th>TRIP RATE</th>
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System Approach
Elements for Proportionality Analyses

- Service Units (vehicle-miles)
- Measure of roadway capacity by facility type
- Land Use Equivalency Table

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Example: The service unit generation of 10 Single-Family Residential Units

10 du x 1.01 trips/du x 3.15 miles = 31.85 vehicle-miles
Proportionality Applications

- Roadway Dedication (VMT supply vs. VMT demand assessment)

- Cost Approach
  - Cost of improvements vs. system impact
  - Land dedication: cost of dedication vs. cost of service
Roadway Dedication Methodology

**Step 1:** Calculate vehicle-miles of capacity provided by proposed development. Determine roadway class as per the Thoroughfare Plan, length of improvements (in miles) and number of lanes.

\[
\text{Development Vehicle-miles Supplied} = \text{Length of Improvement (in miles)} \times \text{No. of Lanes} \times \text{Hourly Capacity per lane}
\]

**Step 2:** Calculate vehicle-miles of demand generated by proposed development using the equivalency table. Determine land uses, size of development, and appropriate service unit equivalent (SUE).

\[
\text{Development Vehicle-miles Demand} = \text{No. of Development Units} \times \text{Vehicle-miles per development unit}
\]

**Step 3:** Compare vehicle-miles supply with demand:

If \( \text{VM}_{\text{Demand}} > \text{VM}_{\text{Supply}} \), then exaction is proportional and justified.

If \( \text{VM}_{\text{Supply}} > \text{VM}_{\text{Demand}} \), then City participation to be considered.
Cost Approach

Cities with Impact Fee System

- \( \$/VM \times \text{Size of Development} \times \text{SUE} = \$ \text{of system impact} \)
- Compare $ of dedication vs. $ of system impact

Cities without an Impact Fee System

- Identify cost of necessary improvement vs. cost of dedication

Or more comprehensively:

- System of improvements (build out less existing system)
- Determine cost of improvements and capacity provided
- Determine $/VM
- Determine $ of system impact (\$/VM \times \text{Size of dev.} \times \text{SUE})
- Compare $ of dedication vs. $ of system impact
Case Study 1: Mapleshade Tract

Proposed Development
165,582.45 square feet of retail uses
Case Study 1: Mapleshade Tract

Proposed Improvements
Type “D” 4-lane divided arterial
Case Study 1: Mapleshade Tract

Proportionality Calculation

Step 1: Vehicle-Miles of Capacity Supplied
Mapleshade Lane; 4-lane divided roadway, 1,250’

\[
\text{(1,250’/5,280’/mi) x 4 lanes x 625 veh/lane} = 591.85 \\
\text{Less (623.29’/5,280’/mi) x 2 lanes x 625 veh/lane} = -147.56 \\
\text{Total vehicle-miles supplied} = 444.29 \text{ vms}
\]

Step 2: Vehicle-Miles of Demand Generated by the Site

\[
165,582.45 \text{ SF} \times 2.25 \text{ trips/1,000 SF of dev.} \times 1.28 \text{ miles} = 476.877 \\
\text{Total vehicle-miles of demand} = 476.877 \text{ vmd}
\]

Step 3: Supply/Demand Comparison

\[
476.877 \text{ vmd} > 444.29 \text{ vms}
\]
The projected demand of the site is greater than supply provided; therefore the exaction by the City is proportional and justified.
Case Study 2: Liberty Cypress Business Park

**Proposed Development**
190,871 square feet of office park
Case Study 2: Liberty Cypress Business Park

Proposed Improvements
Liberty Grove Rd. - Type “A” 6-lane divided arterial (110’ ROW); 25’ ROW dedication.
SH HWY – multimodal corridor; 350’ ROW dedication.
Case Study 2: Liberty Cypress Business Park

Proportionality Calculation

Step 1: Value of ROW dedication
Liberty Grove: 25' ROW x 1403' = 35,077sf
SH 190: 350' ROW x 1403' = 495,148sf
Total ROW Dedication = 530,225sf

Appraised Value of property: $0.22/sf
Value of ROW Dedication: 530,225 x $0.22/sf = $116,649

Step 2a: Vehicle-Miles of Demand Generated by the Site
190,871 SF x 1.5 trips/1,000 SF of dev. x 4.00 miles = 1,145.23
Total vehicle-miles of demand = 1,145.23 vmd

Step 2a: Cost of Impact Generated by the Site
1,145.23 VM x $1,289.18/VM = $1,476,402

Step 3: Cost of Dedication/Impact Comparison

$1,476,402 > $116,649

The projected cost of the site impact is greater than the dedication; therefore the exaction by the City is proportional and justified.
Case Study 3: Town Center

Rough Proportionality System
Case Study 3: Town Center

**Proposed Development**
235,610 square feet of mixed-uses

**Proposed Improvements**
- CR91; Major Collector; 4-lane divided roadway
- CR89; Minor Collector 2-lane undivided roadway
Case Study 3: Town Center

**Proportionality Calculation**

**Step 1: Vehicle-Miles of Capacity Supplied**

CR91; 4-lane divided roadway, 1,488.06 linear feet

\[
(1,488'/5,280'/mi) \times 4 \text{ lanes} \times 550 \text{ veh/lane} = 620.02
\]

Less Portion of Brookshire’s

CR89; 2-lane undivided roadway, 692.44 linear feet

\[
(692.44'/5,280'/mi) \times 2 \text{ lanes} \times 500 \text{ veh/lane} = 131.14 \text{ Total Vehicle-miles Supplied}
\]

**Step 2: Vehicle-Miles of Demand Generated by the Site**

- 46,910sf /1,000sf dev. unit \times 3.06 veh-miles/dev. unit = 143.54
- 35,000sf /1,000sf dev. unit \times 3.06 veh-miles/dev. unit = 107.10
- 69,700sf /1,000sf dev. unit \times 5.08 veh-miles/dev. unit = 354.06
- 3,000sf /1,000sf dev. unit \times 10.71 veh-miles/dev. unit = 32.13
- 3,000sf /1,000sf dev. unit \times 12.04 veh-miles/dev. unit = 36.12
- 73,000sf /1,000sf dev. unit \times 3.06 veh-miles/dev. unit = 223.38
- 5,000sf /1,000sf dev. unit \times 4.94 veh-miles/dev. unit = 24.70

**Vehicle-miles of Demand**

\[921.05 \text{ vmd}\]

**Step 3: Supply/Demand Comparison**

\[921.05 \text{ vmd} > 601.52 \text{ vms}\]

Exaction is proportional and justified.
Case Study 3: Town Center

System Cost of Proposed Development

Step 1: Vehicle-Miles of Demand Generated by the Site
- 46,910sf /1,000sf dev. unit x 3.06 veh-miles/dev. unit = 143.54
- 35,000sf /1,000sf dev. unit x 3.06 veh-miles/dev. unit = 107.10
- 69,700sf /1,000sf dev. unit x 5.08 veh-miles/dev. unit = 354.06
- 3,000sf /1,000sf dev. unit x 10.71 veh-miles/dev. unit = 32.13
- 3,000sf /1,000sf dev. unit x 12.04 veh-miles/dev. unit = 36.12

Total Vehicle-miles of Demand: 921.05 vmd

Step 2: System Impact Costs of Proposed Development

- 921.05 VMd x $1,385.00/service unit = $1,275,655.08
- CR 91: 90' x 1,488.06' = 133,925.40sf x $0.34/sf = -$45,534.64
- Less CR91: 45' x 718.30' = 32,323.50sf x $0.34/sf = -$10,989.99
- CR 89: 60' x 692.44' = 41,546.40sf x $0.34/sf = -$14,125.78

Credit from ROW Dedication: -$48,670.42

Cost Contribution from Development: $1,226,984.66
Municipal Preparedness

- For Cities with impact fee systems:
  - Basics in place
  - Establish methodology/approach of proportionality test, system approach of analyses, information required as part of application, and role of city in proportionality determinations.

- For Cities without impact fees
  - Consider preparation of a proportionality study
  - Establish methodology/approach of proportionality test, system approach of analyses, information required as part of application, and role of city in proportionality determinations.
  - You’re ready for challenges!
New Development System Impact

- Infrastructure adequate to support development
- Application of minimum standards
- Sizing to meet flow requirements of development
- Oversizing for future development
  - Development agreement – City participation
  - Pro Rata agreement
  - Reimbursement on developer’s impact fee
  - Reimbursement on future impact fees
Determining New Development’s “Fair Share”

- Develop clear and flexible Participation Policy
  - Define developer’s responsibility
  - Address City participation
  - Reimbursement instrument options
  - Development agreements
Determining New Development’s “Fair Share”

- Projects without impact fee
  - Determine developer’s loading
    - Standard per capita if lots known
    - Land use estimations
    - I/I allowances for sewer
    - Peaking factors
    - Fire flow
Determining New Development’s “Fair Share”

- Comparison to capacity or buildout flow
  - Sewer:
    - Manning’s flow
    - Modeled dynamic flow
    - Buildout loading based on projected development
  - Water:
    - Estimated capacity based upon max friction loss
    - Capacity based upon modeled system
    - Buildout loading based on projected development
Determining New Development’s “Fair Share”

• Comparison to minimum standard
  – Policy to determine responsibility for this

• Reimbursement for oversizing
  – Reimbursement for cost over minimum standard
  – Reimbursement by Pro Rata agreement
    ▪ Devel. % = Loading/Capacity or Loading/B.O. Flow
Determining New Development’s “Fair Share”

- Projects with impact fees
  - Accounting for impact fees separate from reimbursement
    - Collect all impact fees
    - Developer still responsible for fair share
  - Determine number of service units of loading
    - Based upon number of meters and meter size
    - Equivalency table (see next slide for example)
Determining New Development’s “Fair Share”

- Example Equivalency Table

<table>
<thead>
<tr>
<th>Meter Size</th>
<th>Water Service Unit Equivalents</th>
</tr>
</thead>
<tbody>
<tr>
<td>3/4” x 5/8”</td>
<td>1.00</td>
</tr>
<tr>
<td>3/4”</td>
<td>1.50</td>
</tr>
<tr>
<td>1”</td>
<td>2.50</td>
</tr>
<tr>
<td>1 1/2”</td>
<td>5.00</td>
</tr>
<tr>
<td>2”</td>
<td>8.00</td>
</tr>
<tr>
<td>3”</td>
<td>17.50</td>
</tr>
<tr>
<td>4”</td>
<td>31.50</td>
</tr>
<tr>
<td>6”</td>
<td>70.00</td>
</tr>
<tr>
<td>8”</td>
<td>120.00</td>
</tr>
<tr>
<td>10”</td>
<td>190.00</td>
</tr>
</tbody>
</table>
Determining New Development’s “Fair Share”

- Comparison to minimum standard
- Comparison to capacity or buildout loading
  - Same as without impact fees, except translate to service units
- Reimbursement for oversizing
  - Governed by LGC Chapter 395
  - Reimbursement on developer’s impact fee
  - Reimbursement from future impact fees
  - Reimbursement for size over minimum standard
  - Reimbursement as % of IF CIP project
    - Based upon IF collection rate
Sample Case #1

SITE DATA

8” SANITARY SEWER:
TOTAL LENGTH = 1,200’
LENGTH IN DEVELOPMENT A = 600’
TOTAL COST = $68,000
CAPACITY = 320 GPM
8” IS MINIMUM STANDARD

DEVELOPMENT A:
1/2 ACRE LOTS
DEVELOPMENT B:
1/3 ACRE LOTS
DEVELOPMENT C:
1/4 ACRE LOTS

EXISTING 12” SS

PROPOSED 8” SS

MAIN STREET

DEVELOPMENT A
RESIDENTIAL
9 ACRES

ANYTOWN LANE

DEVELOPMENT B
RESIDENTIAL
3 ACRES

DEVELOPMENT C
RESIDENTIAL
3 ACRES

ANYTOWN LANE
Sample Case #1

- Determine Developer’s Loading
  - Development A # Lots = 9x2 = 18
  - Assumed per capita = 80 gpcd
  - Assumed occupancy = 3 persons per household
  - Loading = 18x80x3 = 4,320 gpd = 3 gpm
Sample Case #1

- Comparison to buildout flow
  - Total Lots = 9\times 2 + 3\times 3 + 3\times 4 = 39 \text{ Lots}
  - Assumed per capita = 80 \text{ gpcd}
  - Assumed occupancy = 3 \text{ persons per household}
  - Loading = 39\times 80\times 3 = 9,360 \text{ gpd} = 6.5 \text{ gpm}
Sample Case #1

- Developer A’s fair share
  - Responsible for line through Development A = $34,000
  - Responsible for proportionate share of segment through Developments B & C
    - Proportionate percent = 3 gpm/6.5 gpm = 46%
    - Proportionate share = 46% x $34,000 = $15,640
  - Developer A’s total fair share = $49,640
  - Reimbursement for remaining cost by:
    - City participation
    - Pro Rata agreement
Sample Case #2

SITE DATA
8" SANITARY SEWER:
TOTAL LENGTH = 1,200'
LENGTH IN DEVELOPMENT A = 600'
TOTAL COST = $58,000
CAPACITY = 320 GPM
8" IS MINIMUM STANDARD

DEVELOPMENT A:
1/2 ACRE LOTS
DEVELOPMENT B:
1/3 ACRE LOTS
DEVELOPMENT C:
1/4 ACRE LOTS

EXISTING 12" SS

IMPACT FEES:
Collection amount = $1,000 (all ¾" x ¾" meters)
If cip project cost = $50,000
Collection rate = 60% of total cip cost
Proposed 8" ss is on the if cip
¾" x ¾" meter is base service unit
Sample Case #2

- Determine service units of loading
  - No. ¾” x 5/8” meters = No. Lots = 18 service units

- Comparison to buildout services units
  - No. ¾” x 5/8” meters = No. Lots = 39 service units
Sample Case #2

- **Reimbursement analysis**
  - Available impact fees
    - Developer A = 18 - ¾” x 5/8” meters = 18 x $1,000 = $18,000 (Developer A pays impact fee)
    - Developer B = 9 – ¾” x 5/8” meters = 9 x $1,000 = $9,000
    - Developer C = 12 – ¾” x 5/8” meters = 12 x $1,000 = $12,000
    - Total potential impact fee collections = $39,000
Sample Case #2

- Impact fee reimbursable cost
  - Total reimbursable cost = IF CIP cost x % collection = $50,000 x 60% = $30,000
  - Reimbursement from Developer A’s impact fees = Developer A loading/Total Loading x $30,000 = 18 service units/39 service units x $30,000 = $13,846
  - Reimbursement from future impact fees = Developers B & C loading/Total Loading x $30,000 = 21 service units/39 service units x $30,000 = $16,154
  - Total reimbursement to Developer A = $30,000
Drainage Proportionality
Drainage Issues

- Current Drainage Ordinances and Criteria
- Legal Issues – Downstream and Upstream Impacts from increased runoff
- Upsizing for fully-developed conditions
- Methods to determine and size proportional share of capacity
- Analyzing and accommodating for fully developed conditions but constructing facilities for individual site runoff
- City-wide/Regional Master Plans
Existing Ordinances in North Texas

- Most ordinances require sizing for fully developed watershed conditions.
- Most ordinances do not allow increase in runoff downstream above existing conditions.
- Typically, development pays for its own drainage with on-site detention or individual site improvements.
- Some developments are looking at potential downstream impacts and are building facilities to accommodate fully developed watershed conditions.
- Some Cities are doing watershed studies to develop regional stormwater plans.
- So, what is being done for proportional share??
Downstream & Upstream Assessments

- Evaluate impacts of increased runoff from site to determine if any DS or US impacts occur due to new development and size on-site facilities accordingly.
- Legally, a site still has to accept stormwater that flows onto the site, as long as it is coming onto the site in the same manner as pre-developed conditions (concentration, velocity, etc.).
- Legally, a site should not cause flooding damage downstream due to proposed development.
- So, what is being done for proportional share??
Options that are being done for Proportional Share

- Make it a site specific issue
- Analyze for fully developed, but build for existing plus increase from project
- Accommodate fully developed conditions by allowing for easements and future expansion of facilities
- Joint participation with Cities for regional solutions
- Developing funding alternatives:
  - Drainage Utility Fees
  - Impact Fees
  - Developer Agreements
Ordinance Example

Downstream Impact Assessment

- The downstream impacts of proposed development must be carefully evaluated to show that design criteria established in this Ordinance and the Stormwater Design Manual are met. The purpose of the downstream assessment is to protect downstream properties from increased flooding, to protect downstream channels from increased erosion potential due to upstream development, and to protect public health and safety. The assessment shall extend from each outfall of a proposed development to a major stream (FEMA-defined floodplain), to a storm water facility identified by the City as having fully-developed flow capacity or to a point designated by the City Engineer, whichever is the nearest point downstream. Runoff computations shall be based upon fully developed watershed conditions in accordance with the City’s latest land use projections. Portions of the watershed which lie within the city limits and ETJ of City shall be analyzed and accommodated as if fully developed. Portions of the watershed which lie outside the City’s limits and ETJ shall be analyzed for existing conditions.
Limitation of Runoff

- Calculations using the following runoff limitation options shall be performed for the proposed development to demonstrate downstream adequacy in accordance with the design criteria in this Ordinance and the Stormwater Design Manual:

- If the necessary future capacities of the affected drainage systems within the downstream impact area are shown to adequately convey the fully developed 2-year and 100-year design flows from the watershed that meet the design criteria specified in the Stormwater Design Manual no limitation of development runoff is required.

- If the downstream analysis demonstrates conditions that exceed the design criteria established in this Ordinance and the Stormwater Design Manual within the downstream impact area, the developer shall conduct one or more of the following:
  
a. Identify the required upsizing of any affected downstream structures and any needed drainage easement within the downstream impact area to handle the fully developed watershed conditions within the requirements of the Stormwater Design Manual. Determine the capacity of those downstream facilities to convey:
    i. existing watershed conditions
    ii. existing watershed conditions with the proposed development; and
    iii. fully developed watershed conditions.

  The City may, at its discretion, participate in construction of facilities that correct existing drainage inadequacies and/or convey the fully developed watershed conditions, other than for the proposed development, if adequate funds or other funding agreements are available. Funding options are identified in Section 12.410 of the Ordinance.

  b. Limit discharge to existing, predevelopment conditions or less;

  c. Acquire suitable drainage easement on the City’s behalf to contain the increased runoff to meet the design criteria in this Ordinance and the Stormwater Design Manual; or

  d. Participate in a regional facility that accommodates fully developed watershed conditions as mutually agreed upon with the City.
Drainage Improvements Required for Development

- Developments for which this Ordinance applies shall provide for any new drainage facilities, the improvement of any existing drainage facilities, channel improvements or grading, driveway adjustments, culvert improvements or any other improvement, drainage facility, or work which is necessary to provide for the stormwater drainage requirements specified in the Stormwater Design Manual.

- The developer is required to dedicate drainage easements across the site that will accommodate fully developed watershed conditions. The developer is only required to construct that portion of the drainage system across the site that will convey existing offsite flows and the flows from the proposed site development. Upsizing or phasing the construction of the drainage systems to accommodate fully developed watershed conditions shall be coordinated with the City. Funding for the increased sizing of these facilities shall be in accordance with Section 12.410 (Funding) of this Ordinance.
Funding Examples

- Establish Drainage Utility and use drainage utility fee for O & M and include some portion for capital and/or regional projects
- Implement a Drainage Impact Fee by watershed. Must have watershed study, 10-yr CIP, and watershed specific rates. Also, potentially requires City to up-front cost or first phase. Not very successful to-date in North Texas
- City participate in the up-sizing of facilities to accommodate fully developed watershed conditions
- Public/Private partnerships and/or agreements between City and Developer to fund up-sizing or regional facilities
How do you measure proportionality?

Who prepares the analysis or study?

Is it a study or an approval? How long can the city take to prepare or decide on the analysis?

Are parks and trails subject to this chapter?

Does a TIA establish proportionality?

Who pays for the analysis, study or determination?
What if you already have impact fees under Chapter 395? What if you do not?

If your subdivision regulations require it (i.e., it is on-site) are you still subject to proportionality?

Where should your proportionality processes be located?

How do pre-existing drainage laws affect proportionality requirements?
Rough Proportionality – It’s State Law!

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