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Impact fees face challenge

FRANK WALLIS

Bulletin Staff Writer

(Editor's Note: This is part of a continuing series of stories looking at Mountain Home's water rate situation and possible alternatives.)

Determining the actual cost of upgrading public utilities to serve an expanding city and dividing that cost fairly among all residents is a challenging problem common to all growing cities. It's the kind of problem that has brought the Northwest Arkansas Homebuilders Association (NWAHA) and the city of Bentonville head-to-head in a lawsuit.

The association claims a proposed impact fee for Bentonville to pay for streets and fire and police protection in new subdivisions is in reality a tax levied unfairly against builders.

The impact fee is similar to one suggested by a Mountain Home citizens group in lieu of proposed water rate increases.

Jan Skopecek, chairman of the NWAHA board of directors, said cities in northwest Arkansas have struggled for years with commercial and residential growth and its impact to public utilities. The public and city officials often fail to see construction as an industry that provides jobs and growth in the property tax base.

"The construction industry isn't the problem," said Skopecek. "New construction pays its own way, but it's hard to convince the public of that. New construction brings a great deal of revenue to the local economy with the purchase of building materials, equipment, paid labor and properties sold.

"If we were another kind of employer, cities would be offering tax incentives," said Skopecek. "Instead, too often, they add to our costs and that affects the affordability of housing."

A lot is riding on the outcome of the legal argument between the city of Bentonville and the NWAHA, according to Virgil Neuroth, vice president of the Fayetteville Chamber of Commerce. If a judge rules it's a tax, Arkansas impact fee law may fall.

Neuroth said he has observed the cities of Fayetteville, Bentonville and Rogers as city fathers debated the concept of impact fees. He said about 1,200 new homes now under way in and around the city of Fayetteville will all have buried in their price tags impact fees of about \$1,100 each.

"A lot of the people who are buying those houses have been living in the city for many years and paying for the water system all that time," said Neuroth. "They will pay the impact fee, but the people who buy the houses they're moving from won't pay."

Saddling people with the cost of expanded utilities because they are upgrading their housing seems to fly in the face of the American Dream, said Neuroth. That inequity was not overlooked when the city of

Fayetteville worked the kinks out of its impact fee schedule a couple of years ago.

"Builders weren't opposed to paying something for the services they need so long as the costs are justified," said Neuroth. The addition of streets, fire and police service expansions to the Bentonville impact fee plan was too much for the homebuilders, he said.

Runaway impact fees in Florida and Colorado often ranging from \$15,000 to \$20,000 per home illustrate how impact fees can get out of hand, he said.

Defining "actual cost" is the elusive and tricky part of arriving at any kind of impact fee schedule, said Skopecek. An impact fee schedule is supposed to be based on the actual cost a city incurs in adding new development to city services. Lost in most impact-fee arguments is the question of value.

Within the framework of Arkansas law authorizing cities to levy impact fees is the provision for impact fee revenue to be set aside for use exclusively in the new areas being added to the public utility, said Skopecek.

"If you build a street in the northwest part of the city, the city can't ask the people in the southeast part of the city to pay for it," said Skopecek. "Is that new street really worth nothing to those residents?"

"Who benefits from the city parks? Everyone. Everyone built this town. Everyone benefits," said Skopecek.

Neuroth said the debate over sharing the cost of growing utilities and services in growing towns will likely be a lively one for a long while. Interests at extreme ends of the user spectrum often weigh in the loudest.

And they should, he said.

"Retired people on a fixed income who use just a little water each month have a good argument for the city to look somewhere else for money to pay for new services," said Neuroth. "At the other end, an industry ... a manufacturer that employs 1,000 suddenly hit with a \$500,000 annual rate hike ... you have to ask at what point in the board room will they look at their bottom line and start talking about moving to China.

"Say one of those shuts down and moves, and the city goes shopping for another industry to replace it, offering incentives including free water and sewer," added Neuroth.

In between there should be a way to divide the cost that recognizes the needs at both ends of the user spectrum, said Neuroth. He argues as well that city planners should recognize the importance of builders to growing cities.

Neuroth said he personally believes the cost of growth should be shared in some measure by all users.

"A rate increase that recognizes the small user and big ones," he said.

frankw@baxterbulletin.com