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Appeal unlikely in school fee case

08 Dec 2005

By Deanna Sheffield News-Gazette Staff Writer

After nearly two years of fighting homebuilders over some of the highest school impact fees in the state, the Osceola County School Board appears to be leaning toward accepting a lower amount.

The School Board, meeting in executive session Tuesday, decided it would not appeal Osceola Circuit Judge R. James Stroker's ruling reducing the impact fees, according to School Board members Jay Wheeler and David Stone.

The two School Board members said the board's decision not to appeal is contingent on Stroker's final ruling being identical to the verbal order that he read in court last month.

The School Board can meet in executive session, closing the doors of a meeting to the public, to discuss pending or current litigation.

Last month, the school district appealed a \$2,100 credit that homebuilders were awarded against the \$9,868 impact fee (for a single family home). Stroker reduced the credit to \$1,815. He also affirmed that the district's methodology, which had been in question, was accurate other than a math error.

If the judge reduces the credit (essentially to offset other taxes paid by homebuilders that help fund schools) as planned, the impact fee will be \$8,022 for single-family homes, \$5,279 for multifamily homes and \$3,849 for mobile homes.

"Right now we're just waiting for the judge to come up with the final order. It does not look like we would appeal, but until the order is in place there's nothing we can do," said School Board member Jay Wheeler. "It's a typical lawsuit. Not everyone gets what they want."

The order could be released at any time. The school district has been placing the contested amount — now about \$45 million — in an interest-earning escrow account.

The lawsuit was filed against both Osceola County and the school district in April 2004 because homebuilders contended that the impact fees were unconstitutional and miscalculated based on faulty methodology. Impact fees were raised from \$2,828 to \$9,708, among the highest in the state in May 2004. They were raised to \$9,868 following the most recent cost-of-living increase.

Plaintiffs in the lawsuit include the Home Builders Association of Metro Orlando, the Florida Home Builders Association, Robertson Homes Inc., Wetherington Builders Inc., and ARNCO Construction.

A major problem is that the cost of construction, including materials and labor, has skyrocketed since the funds were first placed in escrow. School Board member David Stone said that continuing to appeal the lawsuit would result in "substantial money being held up."

Superintendent Blaine Muse said that Stroker had requested briefs from both sides before he issues his final ruling.

"At this point we still have to receive the judge's final order. I don't know that anything is final," Muse said.

However, if the school district does not appeal, the lengthy court battle will finally be over.



November Journal of Osceola County Business



Photo of the week



News-Gazette Photo/
Sam Roberts
Bernard Preec grabs a bunch of broccoli at the Kissimmee Farmers Market Dec. 1. The market is held every Thursday from 7 a.m. to 1 p.m. in Toho Square at Pleasant and Darlington streets. Free parking.

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December						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
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4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
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CALENDAR EVENTS

- 12/10 [Holiday Extravaganza](#)
- 12/16 [Great Florida Shootout](#)
- 01/21 [12th Annual Senior Games](#)
- 02/10 [Livestock Show and Fair](#)
- 02/17 [Silver Spurs Rodeo](#)

"If the judge approves the orders provided in the draft, I think my clients will not appeal," said William Hyde, attorney for the homebuilders. "It would probably end it."

Osceola County does not expect to appeal either. County commissioners will not meet to discuss the item until Stroker issues a final ruling, but members don't support keeping funding that could be used to construct new schools in escrow while the case languishes in the courthouse.

County Commissioner Ken Shipley said he believes that the county should not appeal so the district can get to work on constructing new schools.

"We have to decide if the outcome justifies the means," Shipley said. "We have the option of continuing the litigation while we're doing this but that doesn't build any more classrooms," he said. "We need to go ahead and start releasing that money so the school district can take care of the schools."

County Commissioner Paul Owen said that the county would soon re-examine current impact fees anyway. The impact fees have a built-in cost-of-living increase.

"I would probably support just letting it go at this point," Owen said. "We need to just get together with the School Board and readdress the issue."

County Commissioner Atlee Mercer agreed and said that it's challenging enough to get a large group of individuals to agree on anything.

"I think appealing is a waste of taxpayer money. I would just like to see it given to the school board to spend," Mercer said.

Richard Collins, assistant superintendent for business services for the school district, said that the funds should be available immediately following the judge's ruling if there is no appeal. The district would first have to refund overpayments before it could begin spending money on new schools. Collins said the district is currently devising a capital plan in case the funds are freed up.

The fees are close to amounts in neighboring counties. Lake County charges an impact fee of \$7,055, while Orange County charges \$7,000.

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