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The Almanac

Atherton to refund \$1.6 million in road fees

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It seemed like a good idea at the time: charge builders a road impact fee and use it to repair Atherton roads torn up by heavy construction vehicles. Now, town officials are preparing to refund \$1.65 million in road fees collected since July 1, 2006.

The Atherton council voted to approve the refunds on a 3-1 vote, with Mayor Kathy McKeithen opposed, at the Feb. 17 City Council meeting. Councilman Jim Dobbie was absent.

"If it keeps the town from lawsuits, that's worth a lot," said Councilman Jerry Carlson.

Road-impact fees are a matter of legal controversy, according to Atherton's city attorney, Wynne Furth. However, the town is legally obligated only to refund fees collected in the 90 days prior to the date in December when the council rescinded the road impact fee, she said.

The plan, to refund anyone who paid the fee from July 2006 to December 2009, was proposed by a citizen committee. During that time period, the town collected \$2.7 million in road fees. Anyone who paid the fee would have to apply for a refund.

"We request that you acknowledge that this was of questionable legality," said Jeff Wise, a member of the committee.

Mr. Wise said his group was OK with capping the total refunds at \$1.6 million. Councilman Charles Marsala pointed out that it was likely that not everyone who paid the fee would request a refund. Atherton recently refunded improperly assessed business license taxes, and only 42 percent of those entitled to a refund applied for it, Mr. Marsala said.

From July 2001 through June 2009, the town collected a total of \$5.17 million in road-impact fees. Road-impact fees paid for about half of all of the street reconstruction projects done in Atherton last year, Public Works Director Duncan Jones told The Almanac.

Mayor McKeithen espoused different parameters and time-frames for refunds, saying she was concerned that some in town would see the refunds as a gift of public funds to builders. Mr. Carlson said he hoped people receiving the refunds would consider making charitable donations to nonprofits that support the town, such as the Holbrook-Palmer Park Foundation.

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