

## Attorney: Homebuilders want fair fees

05/25/2006 -

By Camie Young

Staff Writer

[camie.young@gwinnettdaily.com](mailto:camie.young@gwinnettdaily.com)

LAWRENCEVILLE - An attorney for homebuilders said impact fees could even be good for business, but only if governments are fair and honest when deciding when and how to charge for growth.

Darren Hicks, a Columbus attorney who represented the Georgia Homebuilders Association in a lawsuit contesting Cherokee County's impact fee ordinance, spoke Wednesday to a Gwinnett panel considering the fees. Using common sense arguments often based on his life on a farm, Hicks said governments need to think through the costs of the program, the potential conflicts between cities and counties and the services the government wants to provide.

Hicks said some counties use consultants to determine if impact fees are plausible then hire the same consultants to devise a system instead of assessing the funding situation on their own.

Instead, he said, the county should determine internally if the fees make sense.

The most important part of the Cherokee case, which he won in Superior Court but lost in an appeal, was about the county building facilities within cities even though the new homes and businesses in the cities weren't subject to the fees.

Plus, proximity to parks and libraries wasn't taken into account in deciding who would pay the fees. Instead, it was implemented county-wide.

Hicks said the maneuver is within the law, but it creates public perception and political problems and simply isn't fair to the homeowners and business owners who eventually have to pay the extra cost.

"It may be legal as all get out today, but I don't believe it's fair," he said.

"That's what the development community wants is accountability in writing and not just good intentions."

At the same time, though, he said impact fees shouldn't be used to try to slow down growth.

They have become common practice in Florida and California, but those states are still experiencing surges, especially since the fees mean improvements to roads and other services are guaranteed.

"If you build infrastructure, it (growth) will come," he said. "But we think it's good for citizens generally to have (accountability)."

As a former city planner in Fayetteville and a vice president of the Council for

Quality Growth, Jahnee Prince said she had mixed feelings about impact fees.

But she said major developers never balked at the fees imposed in the city south of Atlanta. Smaller "mom and pop" developers often caused the most uproar about the fees, she said.

While the council has no official position on the charges, Prince said it could save developers from having to dole out even more money on area improvements as part of a condition of zoning.

"Building the infrastructure actually creates more opportunity for economic development," she said.