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Builders threaten impact fee lawsuit Town Council to consider raising road and parks rates

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— Mealand Ragland-Hudgins, 459-3868

SMYRNA — Depending on the direction the Town Council takes with its impact fee schedule, Smyrna could find itself in a lawsuit.

Karyn Beaty, executive director of the Rutherford County Home Builders Association, said filing a suit against the town has been discussed.

"It is well within the realm of possibilities that it could happen," Beaty said.

Last month, the council voted to raise road and parks impact fees to 60 percent of the maximum allowed by ordinance, or \$569.40 for parks and \$1,801 for roads, compared to the current rates of 49.4 percent and 36.8, respectively, for parks and roads. Smyrna charges the maximum fire impact fee of \$253.

Smyrna adopted impact fees in 1999 in order to help pay for growth related to those services. During a strategic planning session in January, council members looked more closely at adjusting the fees after realizing upgrades to the town's infrastructure would be needed within the next several years.

The measure is up for its final vote at tonight's council meeting, which begins at 7 at Smyrna Town Hall, 315 S. Lowry St. The meeting will also be cablecast live on Smyrna Channel 3.

Though not speaking on behalf of the Home Builders Association, Paul Cross of American Homes said the way Smyrna assesses its fees is unfair and illegal. Tennessee law, he said, states that fees must have a direct and proximate relationship to the impact a new development will cause.

He said it would be more fair if each new development would be assessed on impact cost up front, then developers could divide that figure by the number of planned lots.

"I think home builders in Rutherford County and in Tennessee would have no problem with that if they were implemented that way," Cross said. "Show us the impact and we'll pay our fair share."

Cross' company is developing Florence Crossing, a 31-acre development along Florence Road in the southeastern part of town. His company is preparing to pay for constructing roads, as well as extending any necessary water and sewer lines to the site, which will hold 72 town homes and 112 single-family homes.

Mayor Bob Spivey had not heard of plans for a lawsuit before being contacted by The Daily News Journal Monday afternoon.

"I'd say I don't have any comment until I totally understand what their issue is," he said.

The people who are most affected by impact fees, Cross said, are the homebuyers, especially those in the lower middle class.

"People who are building a 3,500- or 4,500-square-foot house and are paying \$300,000 don't really care. But for the people who are struggling, that \$2,500 (in impact fees) doesn't add to the value of the house," he said.

If the measure passes, the new fee schedule will take effect Wednesday, said Town Attorney Michele Elliott. Building permits obtained by Dec. 31 would fall under the current rate schedule.
