Councilors give final approval to impact-fee reduction

BY ARGEN DUNCAN

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Despite the threat of a lawsuit, the Rio Rancho Governing Body has given final approval to a two-year moratorium on impact fees.

City councilors voted 4-2 to pass the second and final reading of an ordinance removing commercial impact fees and decreasing residential impact fees by half for two years at their meeting Wednesday night at City Hall. Impact fees are charges developers had to pay to the city to cover the costs of system-wide infrastructure upgrades necessary to handle the new development.

Councilors Mark Scott, Chuck Wilkins, Tim Crum and Lonnie Clayton voted for the measure. Councilors Patricia Thomas and Tamara Gutierrez voted against it.

The ordinance is effective 10 days after adoption.

During public comment, 12 people from development, home building, real estate and business fields spoke in favor of the moratorium. They said the move would encourage businesses to come to Rio Rancho or expand.

Several presented calculations indicating the increase in gross receipts tax revenues would make up for the loss of impact fees.

Paul Wymer — who represents a real estate business and a civil engineering firm — said new and expanded businesses bring new jobs, which come with new income, which in turn triggers new spending. That spending generates gross receipts tax money.

“It’s a trickle-down effect,” he said.

Richard Leverick, attorney for three developers including Cabezon developer Curb North Inc., said the moratorium impacted his clients. They have debt and limited resources, and built $30 million in infrastructure in Rio Rancho, he said.

As reimbursement for building more infrastructure than required, the developers received impact fee credits, which could be used in lieu of paying impact fees on future development. They could sell the credits to other developers or use the credits themselves.

Leverick said his clients could survive in the short-term selling credits under the 50 percent residential impact fees remaining, but the moratorium reduced their sales opportunities by 80 percent. He said he wouldn’t oppose a 50 percent decrease in both commercial and residential impact fees, but any greater decrease would have such a severe effect that his clients would have no choice but to sue.

The slow economy, not impact fees, affects development, he said, adding that Albuquerque’s impact fee moratorium didn’t change the number of building permits taken out in that city.

Thomas said Leverick’s clients said they’d ask for a settlement of more than $5 million in damages, plus payment of interest, lawsuit expenses and more.

“Where’s the money going to come from, especially now that we don’t have the money for all the (infrastructure upgrade) projects in the city?” Thomas asked.

Crum said he thought the development activity spurred by the moratorium would allow impact fee credits to sell, making them a non-issue in a year.

Gutierrez cautioned that the moratorium might not pay off. Other factors such as too few roof tops and a lack of land due to platting keep away new businesses, she said.

Wilkins said he offered a compromise of a 75 percent reduction of commercial impact fees to Leverick’s clients but was refused.

Mayor Tom Swisstack said Rio Rancho doesn’t have the economic base and infrastructure development that Albuquerque and Santa Fe do. Also, he said Albuquerque received $1.7 million less revenue than expected and lost many construction jobs during its moratorium.

Swisstack also questioned how the city would pay for infrastructure to support new development before the predicted financial returns came.