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County lets developers keep lower road fees

Commissioners decide to preserve a 'pay-as-you-go' formula that Teresa Jacobs says is flawed.

By David Damron
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Developers scored a victory Tuesday after Orange County commissioners backed a disputed policy that allows them to build on clogged roads by paying a fee that's half as much as the county could charge them.

Commissioner Teresa Jacobs, the dissenter in the 5-1 vote, said the lower-fee policy is flawed and was never voted on by commissioners. Keeping it would continue to cost taxpayers millions in lost road-building funds, she said.

Mayor Rich Crotty defended the road-fee formula, saying it would likely change as new state growth-management laws take effect, perhaps next year.

"We voted to continue the status quo, knowing that there are going to be changes in the future," Crotty said.

The flap is over an arcane formula in a 7-year-old "pay-as-you-go" policy. The one backed Tuesday allows commissioners to approve more homes and businesses on Orange's most-clogged roads in exchange for cash from developers to build future roads.

Jacobs complained in June that county workers have wrongly undercharged developers. The flaw allowed developers to pay less than half their proportional share of road improvements, costing as much as \$10 million in lost funds, she said.

The Orange County Comptroller's Office is reviewing whether developers are being charged enough. That assessment could be completed in coming months.

Though everyone agrees that commissioners never approved the funding formula, it's unclear who

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implemented it.

County Administrator Ajit Lalchandani said his planning staff followed the law properly and didn't give out discounts.

The policy appears to have been crafted, approved and implemented in the late 1990s.

Lalchandani said Tuesday that it actually might have been instituted, without his knowledge, after he became public-works director in mid-1995.

"I don't recall being involved in writing a memo or approving a policy under my signature, which is not to say that it didn't happen," Lalchandani said. "I don't recall being in that loop."

But the fact that commissioners never approved the formula troubles Jacobs as much as the possible discount developers might receive.

"The public has a right to know what decisions we're making," Jacobs said. "This is not a moment for Orange County to be proud."

Commissioner Bill Segal said he saw no "conspiracy" to give developers a break without telling commissioners, and alluded to Jacobs' questioning of staff as akin to "McCarthyism."

Acknowledging that he had not read Jacobs' responses to staff explanations of the situation -- they arrived on his desk Tuesday morning -- he said he was comfortable that "it seems we're doing our job."

While voting to preserve the existing road fee, Commissioner Homer Hartage said it appears staff did set policy by choosing a formula to charge.

A committee made up largely of developers and those with ties to builders recently concluded that the existing fee is adequate, especially coupled with road-impact fees the county also charges.

"We're comfortable with how this has all been done," committee chairman and attorney Pat Christiansen said.

Most commissioners agreed.

"I don't think it's fair for developers to be penalized," Commissioner Mildred Fernandez said.

The vote Tuesday also added two members to the road-fee committee, who likely will come from public-interest or environmental groups to balance its makeup.

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