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Mar. 19, 2010

County won't halt construction tax

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PVT

Nye County School District board members wanted to suspend the \$1,600 residential construction tax on new construction but county commissioners wouldn't let them.

Nevada Revised Statutes spell out how to impose the tax but not how to remove it, Commissioner Joni Eastley said. Fellow commissioners seemed to agree with her and there was no motion on the request Tuesday.

"When I went back and read Chapter 387 of the NRS, there are sections in there that instruct the board of county commissioners on how to impose that tax, but there is nothing in that chapter that talks about delegating the authority of the board of county commissioners to suspend or waiver that tax," Eastley said.

Eastley said under a concept called Dillon's Rule, if there is a reasonable doubt powers have been conferred to local government, then power rests with the state.

Nye County Deputy District Attorney Michelle Jones agreed with Eastley.

"This is not a fee. It's not an impact fee, it's not any kind of fee. It's actually a residential construction tax that has already been approved by the Board of Taxation," Eastley said. "If the Legislature doesn't delegate authority to us to do something, then we don't have that authority."

The school district wanted to suspend the collection of the tax through June 30, 2011. The tax amounts to \$1,600 per residence and has been in effect since July 2004.

School Superintendent Rob Roberts and Chief Financial Officer Ray Ritchie were at the meeting but didn't speak. Last year, Ritchie asked county commissioners to renew the tax, an action required every four years.

But this time, school board President Harold Tokerud wrote in a letter to commissioners, "The board of trustees desires to assist in stimulating an economic recovery in the Pahrump Valley area."

School officials in the letter cited Nye County's unemployment rate of 14.9 percent, the highest in Nevada, and the 573 bank-owned foreclosures in Nye County.

"They wanted to do that to stimulate the economy by helping make homes more affordable and helping contractors by putting people back to work," Roberts said, referring to his board of trustees outside the meeting.

The school board's attorney told Nye County School District trustees they merely needed the approval of the county commission and the Nevada Tax Commission to suspend the fee, Roberts said.

"There is nothing in the statute that provides for reducing a tax," Roberts added. "Our board has done what they can do, there's nothing more we can do."

The school board decision was made despite statements by Tokerud in the letter that school district revenues from property taxes, payment equal to taxes and bond issues are insufficient to meet future capital needs of the district.

County commissioners withdrew an agenda item to suspend county impact fees, which amount to \$1,961 on a residence. Eastley said back in summer 2008, when the economy began to slow down, the county obtained a written opinion from development attorney Mark White in 2008 which said the county couldn't declare a moratorium on impact fees.

"That was partially done but it was never acted upon. We need to revisit that," Nye County Manager Rick Osborne said.

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