

Published Sunday, October 30, 2011

Coweta settles impact fee dispute with medical office

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The Newnan Times-Herald

Coweta County agreed last week to settle another one of its impact fee disputes, and this time with the developers of a medical office building.

The county settled for \$25,000 of the approximate \$107,030 the developers were originally assessed in transportation impact fees.

The Coweta Board of Commissioners voted on Oct. 18 to accept the settlement agreement with Coweta County Medical Office Investors LLC (CCMOI) to grandfather the company under the county's March 2007 version of its impact fee ordinance. That version does not include transportation impact fees.

CCMOI had originally been assessed about \$162,170. It paid about \$55,140 in June 2007, and asked for a waiver of the transportation portion, but it was denied.

The county's impact fee ordinance, adopted in April 2006, is designed to help pay for projects needed for fire protection, sheriff's office, county jail, and parks and recreation services as a result of new growth and development. The projects are identified and updated annually in the county's Capital Improvements Element, as required by state law. An additional fee for road projects was added in March 2007. It represents the biggest portion of the county's impact fees. Exemptions to the fees are allowed for some industries, schools, churches and other nonprofit groups that meet certain criteria.

The county's four-year-old dispute with CCMOI centered around its development at 20 Francis Way in Newnan. The approximate 115,300-square-foot building, off of Highway 34 East, houses several of Piedmont Newnan Hospital's services including the Newnan locations of Piedmont Heart Institute Physicians, Piedmont Sleep Center, Piedmont Cardiovascular Imaging Center and the Piedmont Rehabilitation Center.

CCMOI claimed it began developing its project before the county implemented transportation impact fees. Mark Oldenburg, an attorney representing CCMOI, said the additional fees would not have been assessed if a review by the Coweta Water and Sewer Department had been timely, and if his clients had been made aware that the county allowed developers to freeze fees after they first apply for the permit.

The company's appeal was denied in September 2008 and brought back again for consideration two months later. After two deferrals, the board upheld its denial in January 2009. The company was issued a temporary certificate of occupancy.

Last week, the county agreed to issue a permanent certificate of occupancy in exchange for CCMOI paying an additional \$25,000 instead of the full amount. County Administrator Theron Gay explained the agreement came about after more review, which determined CCMOI's appeal had "some grounds." The county administrator -- or his designee -- is charged under the ordinance to adjudicate any appeals to impact fees.

During CCMOI's appeal, the county was also being sued by another developer, Level 5 LLC, which also had a project underway on Highway 34 East. Level 5 was developing the property that houses the Delta Community Credit Union. It was assessed about \$271,500 in impact fees, of which about \$128,540 was for transportation. After their appeal and denial, the county later agreed in April 2009 to refund \$114,000 of their transportation impact fees.

Other than Coweta County Medical Offices and Level 5, the county has not entered into any other settlement agreements on impact fees with developers, according to Patricia Palmer, the county's public affairs director and spokesperson.

In June 2008, Piedmont Newnan Hospital also appealed its \$1.1 million in permit and impact fees for its replacement hospital being built on Poplar Road. They were denied by the board.

Palmer confirmed this week that Piedmont Newnan Hospital's impact fees of about \$858,000 were waived administratively, instead. The board took no action nor entered an agreement with the hospital.

Based on the county administrator's review that the hospital may be eligible for industrial revenue bond (IRB) financing, the board agreed in June 2008 that the matter "would be handled administratively should the hospital meet the (exemption) criteria." The hospital had to be eligible to finance its project with IRBs, create a minimum of 200 new jobs and invest more than \$50 million to be eligible for their 100 percent waiver.

County Attorney Jerry Ann Conner responded in a Feb. 27, 2009, memorandum to the board and county administrators that the hospital and its adjoining medical office would require a \$175 million investment and the creation of 255 new jobs, meeting two of the three exemption requirements.

She added that Piedmont Newnan Hospital is a 501(c)(3) nonprofit corporate entity and would be the primary tenant of the new project, thus the hospital developers would be eligible to qualify for IRB financing with a development authority, the last of the exemption requirements.

The board of commissioners vote last week to settle the dispute with CCMOI came after they reentered into a regular session, following an executive session to discuss non-related real estate matters. The Times-Herald sought release of the documents related to CCMOI's agreement through an open records request.

CCMOI is a limited liability company registered with the state of Georgia. Its articles of organization dated Nov. 2, 2005, and subsequent annual renewals do not identify officers or others in the company

other than the lawyers who handle the filings. The company's address is the same as the Fayetteville location of Southern Orthopaedic Specialists' clinic, located inside Piedmont Fayette Hospital.

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