



## Gautier mayor wants county supervisors' support in fighting JCUA fee

Published: Tuesday, November 16, 2010, 6:00 AM



**April M. Havens, The Mississippi Press**

PASCAGOULA, Miss. -- Gautier Mayor Tommy Fortenberry wants county supervisors' support in fighting a Jackson County Utility Authority fee he says is illegal and stifling economic development in Jackson County.

Fortenberry is taking issue with charges related to will-serve letters, which verify that the JCUA has reviewed a development plan and has the capacity to take on the wastewater needs of that project.

The mayor gave an example of a 30-unit subdivision project, whose developer had to pay more than \$9,950 -- \$650 of that sales tax -- to obtain the will-serve letter.

The fees can discourage economic development, especially in a slow economy, the city's planning and economic development director Samantha Abell told the Jackson County Board of Supervisors at the Monday meeting.

It obstructs developers, she said, because they're required to pay fees on a project that might not break ground for more than a year. Also, she said, other utility authorities in Harrison and Hancock counties do not charge for the letter.

JCUA Executive Director Tommy Fairfield, however, said the charge is not for the letter itself.

"The charge is for a certification fee," said Fairfield, who did not attend the supervisors meeting.

That fee includes a capacity fee based on the amount of flow and the connections needed to serve the development, he said, and it also includes a smaller review fee for the manpower and time required to coordinate with the Mississippi Department of Environmental Quality and the health department.

The JCUA must approve development plans before the health department will even review it, he said.

The money from the fee is put into the JCUA's expansion fund or to increase capacity or upgrade equipment at the facility that will handle the development's utility needs.

If a development falls through, the developer may be refunded its capacity fees, Fairfield said, but not for the review fees.



(File)

Gautier Mayor Tommy Fortenberry

One reason for charging the fees on the front end, he said, is because once a developer has the will-serve letter, he has no reason to return to the JCUA.

"We know we've built to capacity and have the capacity for future development ... but it's a matter of getting paid for that capacity," Fairfield said, to prevent other users from having to pay for system upgrades.

"These fees are real," he said. "They reflect the cost to provide service and make additions."

During the board meeting, Fortenberry said the fees are "borderlining an impact fee." Impact fees are assessed based on the size or impact of a development. The legality of imposing impact fees is questionable.

District 1 Supervisor Manly Barton agreed the charge is essentially an impact fee, "but nobody's been willing to take it to court yet," he said.

"We are," Fortenberry answered quickly. "It's hurting us, and it's hurting us bad."

State Sen. Michael Watson, R-Pascagoula, who attended the meeting in support of Gautier officials, said the state senate attorney thinks "this is blatant and illegal."

Watson said it would only be legal if the authority were given specific authority by the legislature to impose the fee.

"I can't find where they're given that authority," he said.

The fee "is not an impact fee; it's a capacity fee," JCUA board attorney Jimmy Heidelberg said. "We have the legal authority to charge those fees."

Fortenberry admitted the city's research on the subject is in its early stages, and the county agreed to try to coordinate a meeting among the cities, the JCUA and the county to discuss the matter.

Fairfield noted he is "more than happy" to discuss alternatives with city and county leaders.

"I'd love to find a better way to do it," he said. "I just haven't been given a better option yet."

© 2010 gulflive.com. All rights reserved.