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Nye won't defer impact fees

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PVT

The suspension or elimination of impact fees was an issue in vogue as candidates sought to project the most pro-business stand during the 2010 Nye County District 4 county commission race.

It's not all that simple.

County commissioners took no action on a request to suspend the impact fees last week. But upon District 4 Commissioner Butch Borasky's suggestion, County Manager Rick Osborne said the county may look at deferring impact fees for developers rather than requiring the entire payment up front.

"Even though some people thought I did this as a campaign ploy, there is a lot of interest to do that," Borasky said.

Borasky's opponent, Carl Moore Sr., who is tied with Borasky after the June 8 primary election, claims that after three-and-a-half years in office, Borasky adopted his suggestion to scrap the impact fees in an attempt to attract economic development.

Commissioner Joni Eastley said the ordinance requires impact fees to be paid when developers take out a building permit.

"There's the moratorium. If you're not pulling the permit, you're not building anything. If you're not building anything, you're not paying the impact fee," Eastley said. "What happens if the property changes hands and the impact fee hasn't been paid? Who is going to be responsible for paying that?"

Nye County commissioners in 2005 passed an ordinance that set impact fees of \$1,900 per residence, while businesses are assessed an impact fee based on square footage.

Tyson Smith, an attorney for White and Smith, a law firm that handles development agreements and other matters for Nye County, advised against suspending the fees.

In his summary, Smith said:

"While the county may repeal its impact fee program at any time -- temporarily or permanently -- doing so may create gaps in capital improvement funding that threaten the validity of the county's impact fee program; create the need for refunds to past fee payers and likely will not stimulate economic development at this time."

The fees are designed to pay for the impact of new development on streets, parks, fire and police protection. State statute doesn't address whether a county may suspend the fee collection, Smith said.

Growth has drastically slowed in Pahrump, to the point, Borasky said during a campaign event, suspension of the fee wouldn't have much of an impact on county revenues.

The 2010-11 Nye County fiscal year budget shows a \$5.75 million beginning fund balance in the impact fee fund. Most of that was collected in the boom years. The county collected only \$472,342 in the fiscal year from July 1, 2008, to June 30, 2009, and expects to collect \$352,648 from July 1, 2009, through this June 30.

Impact fees must reflect the impact each unit of development has on public facilities and must be used for the benefit of those who paid them, Smith said.

Smith reminded commissioners in his May 10 letter, the county has to refund impact fees if construction of improvements for which the fees were collected doesn't begin within five years, or if the fees weren't spent within 10 years of collection.

Smith described the dilemma: If impact fee collections are terminated, how does the county meet its obligations to provide required capital improvements to those who have paid the fees since 2005, and "how will the county fund the facilities demanded by new development after fees are terminated?"

The county could fund capital facilities using the impact fee money paid since 2005, and afterward use funds from other sources. The county could also refund past impact fee collections, which Smith said could allow levels of service to degrade.

He said private sector firms choose where to locate based less on fee and tax burdens than on workforce characteristics and overall quality of life.

The impact fees comprise only about a quarter of total development charges paid on residential development and a third of the charges paid by non-residential development, Smith said -- another indication suspending the fees would be unlikely to result in significant, new economic development.

The Nye County School District charges a \$1,600 residential construction tax. Valley Electric Association began implementing impact fees that total \$2,325, while the cost of water and sewer connections charged by Utilities Inc. add another \$1,500, according to Smith's research.

Nelson said there's unlikely to be increased building activity in Pahrump at least for the next year.

Nye County is behind other communities in levying impact fees for different types of homes, Nelson wrote. Smaller homes with lower impacts would pay lower fees, he said.

During a candidate's debate at the Maverick Saloon last month, Borasky said with little development taking place, the county would take in very little in impact fees at the present time. Moore was in support of repealing the fees but expressed concern, after talking with an attorney, about all the legal challenges the county could face from people who paid the impact fees, if they were now suspended.

Members of a Pahrump Regional Planning District Capital Improvements Plan Advisory Committee have been working on a plan to begin implementing improvements to area infrastructure using impact fee money. So far, much of the money would go to finishing the permanent traffic signal at Highway 160 and Homestead Road. But there has been talk about repaving Dandelion Street from Highway 160 to Calvada Boulevard.

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