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Ocala sues School Board over fire fees

By [Susan Latham Carr](#)

Staff writer

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The city of Ocala is suing the School Board for \$572,265 for fire service user fees and interest that have not been paid since January 2007. Whether the suit goes before a judge will depend on what happens during the mediation, which begins Monday.

The city filed its complaint on Friday in circuit court. It asks that the board pay the fire service user fees and interest, as well as attorney fees.

The city and School Board have been haggling over the fees since 2006, when the city instituted both a Fire Service Impact Fee and a Fire Service User Fee. At that time, the School Board claimed it was not obligated to pay either one.

A state statute says that schools are not liable for impact fees or service availability fees. Similar arguments about fees are being waged throughout Florida, including one in Alachua County that is nearly identical to Ocala's, except it concerns storm water fees.

In Ocala, City Attorney Patrick Gilligan agrees with board attorney Beverly Morris that, under state law, the School Board is not obligated to pay the impact fee. But he opines it is responsible for paying the user fee which, he said, is not exempt under state law.

Morris told the City Council earlier this year that the School Board is not obligated to pay the fire service user fees.

She argued further that, even if the School Board is required under state law to pay the fees, there is no contract between the city and School Board to do so. And, in the absence of a contract, sovereign immunity prevents the School Board from having to pay the fire service fees.

The City Council voted 3-1 in March to sue the School Board. However, state law requires that before two governmental bodies go to court they must go through a mediation process. The council voted in July to put the School Board on notice that the city would begin conflict resolution procedures.

When discussing mediation, both sides agreed that in order for the mediation to be subject to mediation rules, the lawsuit must be filed first, Gilligan said. So, the city has filed the suit but has not yet served the School Board.

“If it doesn't get resolved, we can serve them then,” Gilligan said Monday. “It depends what happens in mediation.”

The two parties will meet Monday before Edwin Cluster, the attorney who will mediate the case.

Morris could not be reached for comment on Monday.

When the City Council voted in March to sue the School Board, Councilman Kent Guinn was the dissenting vote. Councilman John Priester was absent. At that time, Guinn asked that another attempt be made to resolve the issue. Guinn said on Monday that he was still opposed to suing the School Board.

Contact Susan Latham Carr at 352-867-4156 or susan.carr@starbanner.com.