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S'ville can spend its fees

Town has collected \$4.7 million from builders in 3 years

BY DAVE MUNDAY
The Post and Courier

The South Carolina Supreme Court affirmed Summerville's plan to spend millions of dollars in impact fees collected from builders.

The ruling Monday was closely watched by builders and by other municipalities considering using impact fees to help pay for infrastructure required by growth.

The court's decision frees up about \$1 million that the town had been keeping in a reserve fund to cover impact fees that were spent during the appeal, Town Administrator Dennis Pieper said. The town had to spend the impact fees within three years of collecting them.

"This gives us some peace of mind that what we were doing was right," Pieper said. "Now we can move ahead with some other projects."

The Charleston Trident Home Builders Association sued the town in July 2003. The association argued that the town had not demonstrated that the money would be spent only on projects allowed by law.

Summerville has collected \$4.7 million in impact fees since March 2003. The

town has spent some of the money on new parks and firetrucks and is planning to build a new fire station with impact fees from new construction.

The association is not expected to appeal the Supreme Court's decision, Executive Vice President Phillip Ford said.

"I doubt it seriously," Ford said. "I think it's time to move forward. The town has a lot of issues with growth, and hopefully we can sit down and work on them together."

The case was being watched across the state as a possible precedent. For example, Berkeley County has been considering charging impact fees to help pay for roads around new subdivisions.

"We've been looking at that situation and have tried to handle ours to make sure we were complying," Berkeley County spokesman Al Kennedy said.

The important thing is that the suit sent a message that municipalities need to follow state guidelines when they start charging impact fees, said John Cone, executive director of the Home Builders Association of South Carolina.

"The state is very interested because we do not want cities and counties to ignore the law," Cone said. "It's not that we don't want them to do impact fees. It's just that we want them to do them right."

State law allows municipalities to collect fees from builders to pay for roads, parks, fire and police stations and other capital improvements caused by development, as long as the municipality demonstrates that the projects are required by growth and the money will be used only for those projects.

Master-in-Equity Patrick Watts ruled in favor of the town in April 2005. The Supreme Court agreed that Summerville had provided the necessary documentation for its impact fees.

The Charleston Trident Home Builders Association also scored a victory in the lawsuit, Ford said. The Supreme Court ruling established that an association has the right to file a lawsuit on behalf of its members, he said.

The fee in Summerville on a detached, single-family house is \$1,138.

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