

[back to article](#)



Printed on page BN1

Builders, North Port try to settle dispute over road fees

Builders delay trial over experimental

By [John Davis](#)

Published: Friday, August 28, 2009 at 1:00 a.m.

A legal showdown between builders and North Port over an experimental "construction traffic road fee" has been abruptly canceled, as the plaintiffs say it would be cheaper to try negotiating a settlement before going to trial.

North Port's desire to cut legal costs could bring the city to the bargaining table over the lawsuit. Builders had sued to cancel the charge of 50 cents per square foot for houses and 75 cents a square foot for commercial buildings, a fee intended to pay for wear and tear on city roads.

But with the suit set for trial, the plaintiffs abruptly filed for a dismissal earlier this month.

Critics of the charge stand by the claim that it is an illegal impact fee, forcing new homeowners to pay for road problems that have plagued North Port for decades.

The city has collected about \$817,000 since imposing the fee in 2006, with the revenue deposited in escrow pending the outcomes of three lawsuits by the Homebuilders Association of Manatee-Sarasota, the North Port Contractors Association, the developer Fourth Quarter Properties and the Gran Paradiso gated community in the city's western section.

The case drew the interest of the nonprofit Pacific Legal Foundation, which is representing the homebuilders and North Port Contractors without charge. When the foundation heard of North Port's financial problems and efforts to cut legal bills, the nonprofit approached the city with an eye toward staying out of court.

"There would have to be a lot of expert testimony done," said PLF attorney Nicholas

Gieseler, who is handling the case. "The trial would be expensive on for both sides."

North Port's spending on legal services topped \$1 million last year, a sum city leaders consider excessive, given the recession. The city will spend millions from reserves next year as it struggles to bring spending in line with shrinking revenue.

The City Commission met privately last month with city attorney Rob Robinson to discuss whether it was worth it to proceed with more than a dozen lawsuits, including the three over the construction traffic fee.

Commissioners said they were surprised that opponents stopped the lawsuit with trial set for this month.

Commissioner Jim Blucher said he would consider changing the way the fee is levied, expanding it so new construction would not be singled out. Commission Chairwoman Vanessa Carusone voted against the fee in 2006.

Collections have dwindled during the downturn. Last month, for example, North Port did not issue a single new home permit.

Gieseler said that his clients and the PLF are looking for quick action to resolve the fee dispute. Issues to be resolved include whether North Port would be willing to cancel the fee and to pay back builders the money that has been collected.

If no agreement can be reached in the coming weeks, Gieseler said the original lawsuit will be taken to trial later in Sarasota County.

This story appeared in print on page BN1
