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CITY GOVERNMENT

City in legal battle with SWMBIA over the remainder of \$5 million impact fee settlement

Posted: Jun 20, 2011 6:33 PM by Dan Boyce

Updated: Jun 21, 2011 9:49 AM

The City of Bozeman is heading back to court against a local construction conglomerate-- the newest step in an argument over impact fees that stretches back to 1999.

The latest dispute centers around what should happen with \$211,000. That's what's left over from a \$5 million settlement the city agreed to pay back in 2005.

But going back further, in 1999 the Southwest Montana Building Industry Association (SWMBIA) and a number of other builders sued the city over impact fees. An impact fee is charged to a builder for the 'impact' the building will have on road, the water and sewer system, and others.

The plaintiffs in the '99 suit said the city shouldn't be able to charge those--and the city settled in '05, agreeing to pay \$5 million back to the plaintiffs. But there were so many plaintiffs that by the end, \$211,000 was just unclaimed.

The city and SWMBIA have been trying to negotiate terms of what to do with that money ever since and those talks fell through last week.

"We proposed we use the entire \$211,000 to credit future impact fee payers, like an economic stimulus," said City Manager Chris Kukulski.

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"Just to benefit the next 20 or 30 people who post a building permit and pay a fee really is not the best way to protect the class over the long term," said SWMBIA attorney Art Wittich, who argues the money already belongs to the plaintiffs. The plaintiffs want to use the money to hire consultants to monitor the current impact fees charged by the city.

"And we're arguing that that's inconsistent with the judgment that the money was only supposed to be used to pay impact fee payers and the case is over," said City Staff Attorney Tim Cooper.

Representatives for SWMBIA were not immediately available for comment due to prior obligations.

No date has been set for continuing the case in front of Judge David Cybulski.

Topics: City of Bozeman, Southwest Montana Building Industry Association, SWMBIA, impact fee lawsuit

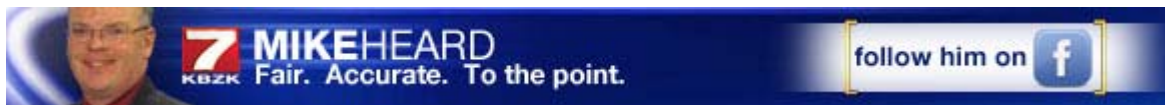
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