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Moratorium on Volusia County school impact fee unlikely

By LINDA TRIMBLE, EDUCATION WRITER 

DAYTONA BEACH -- With a County Council agreement for a two-year moratorium on some impact fees freshly in hand, the leader of the Volusia Building Industry Association set his sights on similar deals with the School Board and local cities.

But a lawsuit the association filed in 2008 challenging the legality of the school impact fee makes it unlikely Mark Bines will see an agreement anytime soon to suspend collection of that \$6,066 per house fee to stimulate the local homebuilding industry.

"We actually suggested to them if they would dismiss the lawsuit, the staff would recommend temporary suspension of the school impact fee," said Alex Ford, the lawyer who represents the School Board in the ongoing litigation. "They didn't want to dismiss the lawsuit, and we didn't move forward with that."

Impact fees are charged to developers to pay for roads, parks, schools and other amenities needed to serve the residents of new housing units.

Ford said the School Board would be "just kind of hanging out there" if it agreed to a moratorium without a homebuilders' agreement to drop the lawsuit or a judge's decision settling the dispute.

The lawsuit against the School Board and the county claims the impact fee formula was improperly applied in a 2005 revision of the county ordinance that established it at the request of the School Board. It's currently scheduled for trial in October.

"We definitely would like to reach out to the School Board and have it put a moratorium on the impact fees," Bines, president and CEO of the building association, said in a Monday telephone interview. "We're always amenable to sitting down to come up with an amicable solution. Nobody wins in a lawsuit."

Ford and Rob Bowling, the attorney representing the building association in the lawsuit, said there are no current settlement negotiations.

"We have tried several times with no success," Ford said.

"As of right now, it's not affecting the lawsuit," Bowling said, although "things could change and anything is possible."

He was referring to the effect of last week's County Council agreement to a two-year moratorium on road, park and fire service impact fees on residential projects that fill in existing development and don't require major road or utility extensions to undeveloped areas.

The council is scheduled to vote Aug. 18 on a moratorium ordinance.

Collection of Volusia school impact fees peaked at \$14.7 million in 2006-07, but dropped to about \$3 million over the last year.

Volusia isn't the only county where impact fees for schools and other purposes have been debated in recent months because of the ongoing construction slump related to the recession.

Orange County commissioners recently cut their \$13,041 school impact fee in half for up to 18 months, while Lake County commissioners suspended collection of the \$9,324 school impact fee until April 1.

Pasco County commissioners also appeared ready to cut their \$4,876 school impact fee in half in April, but a last-

minute change of heart by a key supporter of that proposal kept the fee intact.

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