

Impact fees could be refunded

Written by MARK JAEGER

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Stalled development has put less demand on municipal facilities

For years, the Village of Fredonia has been collecting impact fees from the owners of new homes to cover the anticipated demand on municipal services.

Recently, the influx of new homes has reduced to a mere trickle but the clock is still ticking on the use of the money already collected.

The village's current schedule of impact fees: \$1,089 per residential unit for future water system needs; \$1,149 per residential unit for parks; \$388 per residential unit (or 5 cents per square foot of new commercial buildings) for police facilities; and \$249 per residential unit (or 4 cents per square foot of new commercial buildings) for fire facilities.

As of the end of 2012, the village had collected \$16,100 for fire department needs and just under \$21,000 for anticipated police expenses.

According to its ordinance, the village has 20 years to spend the money collected, and only for the specific purposes spelled out in the needs assessment.

Officials note the lack of new construction in the community represents a double-edged sword when it comes to spending on municipal projects.

The lack of growth means anticipated needs, such as enhanced water capacity and an expanded fire station, have been slower in arriving.

However, the amount of money collected to help offset those anticipated expenses has also been slow to come in.

The impact fees were set based on a 2003 needs assessment of municipal services and how they might be stretched based on anticipated population growth. That study was prepared by the engineering firm Ruckert/Mielke.

Concerned that the time is nearing to spend or refund the impact fees collected, Village President Chuck Lopicola contacted the village attorney for advice on the possibility of using the money for other purposes.

"There are no special exceptions to expending fees on items other than those identified in the needs assessment unless the assessment and ordinance are properly revised and amended," wrote attorney Timothy Schoonenerg, on the staff of Houseman & Feind.

Schoonenerg noted that the Wisconsin Supreme Court has also ruled that municipalities must be able to prove that money collected from impact fees only address "the need for additional facilities resulting from new development, and not from deficiencies related to existing development."

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The ordinance says impact fees will be refunded on a prorated basis if the village determines the projected needs no longer exist.

With the stalled development of such projects as the Village Green and Cobblestone Village subdivisions, Village Trustee Don Dohrwardt said officials have to reassess the community needs.

“Impact fees have gotten to the point where we need to use them or give them back. It is a sticky wicket unless we use them to fund something that already falls into our needs assessment,” Dohrwardt said.

Schoonenerg said any redirection of impact fees can only come after the village has another needs assessment prepared, again using an independent engineering source.