

FLORIDA'S OLDEST WEEKLY NEWSPAPER



# NEWS LEADER

## County returns impact fee cash

*By Ryan Smith, News-Leader*

Nassau County has returned more than \$21,000 in impact fees since November after missing the deadline to use the money on new growth. The fees were all returned to SEDA Construction Co., a Jacksonville-based homebuilder.

Impact fees, which are charged to builders for new construction, are used to fund local projects such as roads and parks. However, Florida statute requires the fees be spent only on new growth - a nebulous definition that has become onerous in the past for those attempting to justify fee expenditures.

Nassau County currently has about \$10 million in unspent impact fees. However, county ordinance stipulates that the fees must be used within six years or else refunded upon request. The county commission may by resolution extend the time allowed for spending the fees, but did not do so in the case of those charged to SEDA Construction.

County Coordinator Ed Sealover said keeping up with which impact fees are not being spent is a constant task. "We do a monthly report on impact fees - on which ones are aging, meaning we haven't spent the money in the time frame that the ordinance requires," he said.

The county has a history of difficulty finding projects upon which to spend impact fees. For a project to qualify for impact fee expenditure, it has to pass the state's "dual rational nexus test," a process that has been called "Byzantine" by County Attorney David Hallman.

"The first test is that they're legal to take," Interim County Engineer Jonathan Page said Thursday. "And the next test to see if impact fees can be used is, does it benefit the people who paid them?"

County Clerk John Crawford, however, said the county should be able to find ways to spend the money.

"We went to great lengths as a government to enact a law to collect money, with the promise that that money would be spent to enact growth, and it would be spent within the confines of the law within six years," Crawford said. "That's a promise that was broken by the government in that they didn't spend that money, and they must return it to the payers. The payers paid that money in good faith, and they have every right to expect that money back when that promise is not fulfilled by the government.

"I believe you could spend every dime of them legitimately, credibly, defensibly - if you'd just do the justifications as are required in law," he added.

Commission Chair Barry Holloway, long a proponent of spending the fees, acknowledged the problem. "Either the (county) attorney didn't sign off on it, or the clerk didn't sign off on it, or we were going after projects that didn't qualify for impact fees. I don't think it's anything that the commissioners did or didn't do," he said. "I don't think it's

been any one individual - just basically lack of taking it forward enough to get it done. The ultimate responsibility lays with the Board of County Commissioners, which is why I've been so vocal for the last two years."

However, Holloway said, the commission is taking steps to find suitable projects for the fees. "All five commissioners have met privately with Jonathan (Page) and our consultant to identify impact fee projects and get them spent," he said.

Page said Thursday he had been working with Jacksonville firm King Engineering to find eligible projects. "Right now we're looking at eight justifications to be written over the next 20 days," he said.

The projects currently under consideration are all road improvements, such as adding turn lanes and widening roads. "Hopefully we'll

get great success and keep rolling on this path. ... We've gotten the first couple of

drafts in and the (county) attorney's making comments. I think we're heading in the right direction. ... I would think we could use all \$10 million in the next three years for sure. ... These that we've got coming in the next 30 days, I could potentially justify \$3 million worth."

[rsmith@fbnewsleader.com](mailto:rsmith@fbnewsleader.com)