

## **Palm Coast threatens to sue county over impact fees**

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Palm Coast officials want impact fee money from Flagler County they feel the city is entitled to and they're tired of waiting so much so that the mayor has threatened legal action.

A road in Palm Coast needs extending, so the money needs to start rolling in soon, Mayor Jon Netts said.

He and his fellow council members voiced their displeasure about the situation during a May 21 council meeting. Vice Mayor Bill McGuire said he thought the county was in breach of contract.

Netts asked aloud, How long can they sit on our money?

Later during the meeting, Netts turned to City Attorney William Reischmann and asked whether the city could take legal action against the county.

You have an agreement with the county, said Reischmann. Like any other contract, its subject to enforcement.

But Flagler County officials say they're not dragging their feet or spitefully withholding \$3.5 million in impacts fees from Palm Coast. Their ongoing response is that the county is not contractually bound to fork over the money, so the City Council and city staff need to be patient and appreciate what they are getting.

County officials say there is a valid reason for the wait and the fault lies with the city. Palm Coast was too slow in acquiring land needed for its Palm Harbor Parkway extension project, said Flagler County Administrator Craig Coffey.

Because the city took so long — 18 months — to acquire the land, the county found itself bogged down with various other capital improvement projects, Coffey said in an interview last week. Drafting a new agreement takes time and that's why the money isn't coming as fast as the city wants, he said.

The rhetoric coming from the City Council, including threats of a lawsuit, is only harming relations between the two governments, Coffey said.

The threats have been getting bigger and bigger on this issue, said Coffey. They can take legal action if they want, but they might not see a dime of their money. That action will not be well received by our board.

Both Coffey and Flagler County Commission Chairman Nate McLaughlin said the county uses impact fee revenues to pay for its own road projects and whatever is left over will be distributed accordingly.

That money is county transportation impact fee money, Coffey said. The county does not have to give it to the city of Palm Coast.

The city, however, has a vastly different take. Council members said the county was in violation of a long-standing interlocal agreement.

Palm Coast sets aside millions of dollars for its own street improvements, but that money is to be spent on projects all over the city, Netts said. If the city has to dip into that pot and spend the money on road improvements that are linked to the county's Interstate 95 interchange construction, it would be unfair to the city's residents, he said.

If the alternative is (using) our street-improvement dollars, then I'm forced to think about (legal action), said Netts.

## **A MATTER OF PERSPECTIVE**

Palm Coast became an incorporated city in 1999. The county had decided an Interstate 95 interchange needed to be constructed at Matanzas Woods Parkway, a county road that now runs through the city.

A high school has since been built along Matanzas Woods Parkway, and city residents along nearby Forest Grove Drive have voiced their concerns about additional traffic coming off the interstate and disrupting traffic in their neighborhood.

The city is extending two roads — Palm Harbor Parkway and Old Kings Road — and connecting them to Matanzas Woods Parkway. Doing so, city officials have said, would divert traffic away from the high school and Forest Grove. Most of the impact fee money would be spent on the Palm Harbor project and a small portion would be used for floodplain mitigation along the extended portion of Old Kings, according to the city.

Coffey said impact fee money will be paid in three increments. The first \$1.5 million will probably be distributed to the city by the end of June. In another six months, another \$1.5 million will be paid. The last \$500,000 will be paid to the city after the Old Kings extension is completed, he said.

"We're trying to get it to them as quickly as we can," Coffey said of the first installment.

One source of contention for Netts is that the county used a portion of its impact fee money to pay for the design of the Matanzas Woods interchange. So the \$3.5 million the county intends to give to the city could have been a larger amount, he said.

In the original interlocal agreement, dated Sept. 29, 2000, the city was authorized to collect all transportation facilities impact fees for new construction within the city limits

and hand over the fees to the county on a quarterly basis. The city would be compensated with a service fee of 3 percent of the gross fees collected.

Also stated in the agreement is the county's option to "expect local Transportation Facility Impact Fee funds on State arterial roads located in the CITY" whenever funds from the Florida Department of Transportation are not available.

The agreement also included a list of roads within, or partly within, the city's limits that are eligible for improvements using transportation impact fees. Both Old Kings Road and Palm Harbor Parkway are on the list.

In May 2012, the City Council and the County Commission met in a joint workshop that Coffey described as "contentious." At the time, Netts insisted the impact fee money belonged to the city. The county chairman, McLaughlin, called Netts' comments "disingenuous."

An agreement wasn't reached last year between the two governing boards. McLaughlin said last week that the city's threats of legal action are probably a negotiating strategy.

McLaughlin, who lives in Palm Coast, said the county recently distributed \$12 million of FDOT funds to the city for other road improvements, so the county has no history of holding back when it comes to doling out money for city road projects.

"They are welcome to this (impact fee) money when we're done with it," McLaughlin said.

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