

The Daily Courier

Thursday, March 25, 2010

Prescott approves impact fee refunds to homebuilders

By [Cindy Barks](#)

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PRESCOTT - Refund checks and explanation letters should begin going out soon to more than two dozen homebuilders in Prescott.

By unanimous action Tuesday, the [Prescott City Council](#) rolled back the water and sewer impact fee increases that the city imposed in July 2009. In conjunction with that, council agreed to refund the money that homebuilders paid in recent months for the fee increase.

The city took the action to comply with a moratorium on impact fee increases that the [Arizona State Legislature](#) approved in August 2009, but made retroactive to June.

In late 2009, the League of Arizona Cities and Towns challenged the moratorium in court, but was unsuccessful.

Meanwhile, the city had begun charging its impact fee increases. But because of the question about the moratorium, it set aside the amount of the increase for possible refund.

Now - months after the moratorium went into effect - a city memo stated: "Given the fact that the legislatively-imposed moratorium is in effect as law, the city attorney has advised that it must be observed until either expiration or (amendment of the legislation)," stated a city memo on the matter.

The city has estimated the total refund amount at \$70,652. Officials say it will affect about 25 people who took out building permits after July 11, 2009.

Because the council used the emergency clause when it approved the temporary roll-back ordinance this week, the refund checks should be going out soon - possibly by the middle of next week.

At this past week's study session a question arose about whether the city should notify the homeowner as well as the building-permit holder. Officials say the refund must go to the permit holder, but the council agreed this week that the city would send a copy of the explanation letter to the homeowner as well as the homebuilder.

While the council was unanimous in its support for the ordinance, former Councilman Robert Luzius objected to the situation that led to the need for the refunds, maintaining that the city should have moved ahead sooner with its impact fee increases.

Luzius was among the council members who voted against a move in October 2008 to postpone the implementation of the impact fee increases until July 2009. The postponement gained council approval in a 4-3 vote.

"It should have gone into effect in January 2009," Luzius said, referring to the originally -suggested timeframe for the impact fee increases. "We wouldn't be having this discussion, because it would be legal."

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