

# The Morning News

## Local News for Northwest Arkansas

### Impact Fee, Panhandling Decisions Delayed

By [Lori Harrison-Stone](#)

*The Morning News*

ROGERS -- Two issues involving collections, one charitable and one governmental, were tabled Tuesday in an effort to give them both more study.

The Rogers City Council agreed to delay passing a panhandling ban to make sure the prohibition won't affect a local chicken-cooking project that funds numerous nonprofit efforts in the city.

The council also tabled a request by the Rogers Water Utilities to convert its controversial hookup and access fees to development impact fees. The fees, which are charged on new development, were the target of new legislation that said such fees are no longer exempt from the requirements for establishing impact fees.

The utility's fees are also the subject of a lawsuit against the utility and the city that claims the fees are an illegal tax. It claims that the fees are essentially impact fees but because they weren't approved by the council or a vote of the people, they're an illegal tax.

The lawsuit and the legislation both call for the refunding of the \$2.9 million in fees collected to date.

Tom McAlister, utility superintendent, said the utility did everything needed to pass impact fees except get council approval in 2004 when the fees were approved. He said a study was conducted, public hearings were held and the money collected has been held in escrow, but the fees were never approved by the council. Donnie Moore, chairman of the Waterworks and Sewer Commission, said the utility had two different legal opinions then that said the fees could be passed as they were and didn't have to meet the requirements of impact fees.

Attorney Asa Hutchinson, representing the utility, said the council's approval will allow the utility to continue collecting the fees and claim the fees collected so far are legal impact fees,

because of a retroactive provision. That provision was included because the new legislation that calls the fees impact fees also includes a retroactive provision. Hutchinson said that part of the legislation could become part of the legal issues involved in the pending lawsuit and could be ruled illegal.

Alderman Jim Clark said he doesn't think the new legislation's retroactive provision will stand up in court. He also said the decision on impact fees is "too big and too important" for the council to make a decision Tuesday without more public input and study. He suggested the issue be tabled until after a public hearing is held.

Bill Burckart of Burckart Construction objected to a suggestion the public hearing be held next week, stating that more study needs to occur. He said the Northwest Arkansas Homebuilders Association will offer alternative suggestions for financing the system's growth.

Burckart is in the process of developing a subdivision in an affordable housing zone in Rogers. If the fees are approved, he said they will be more than the downpayment needed to purchase a \$109,000 home in his subdivision. He vowed to donate an amount equal to the fees to his buyers to prove he has nothing to gain if the fees are dropped.

The fees amount to a minimum of \$2,900 per house and more for commercial development, depending on the size of the water and sewer taps.

A public hearing on the issue was set for 6 p.m. June 4 at Rogers City Hall.

## MEETING INFORMATION

Rogers City Council

Approved on Tuesday:

\* A contract to buy 1.2 acres including a house for \$143,000 to help complete the extension of Price Lane between Eighth and First streets.

\* A \$3.4 million contract with Jimmy Jones Excavation for the construction of the Pauline Whitaker Parkway.

\* A rezoning to allow a planned unit development at the northwest corner of Bellview Road and Ajax Avenue.

SOURCE: Staff Report