

Stormwater fee debate runs on Officials drop 5-acre rule for discount

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PALM COAST -- PALM COAST - City officials offered a concession to property owners over proposed stormwater utility fees but the two sides remain apart on how to, as one attorney put it, "slice the . . . cat."

Some developers have blasted the city's proposal to impose a stormwater utility fee on owners of undeveloped land. One developer's engineer, Charlie Faulkner, recently said it would be like charging people for the air they breath. He said one of his clients would have to pay \$115,000 per year in stormwater fees under the proposed ordinance.

Officials started revising the city's stormwater ordinance in 2008 after a group of developers complained the existing ordinance was unfair and hired attorney Michael **Chiumento**. An attorney for the city, Anthony Garganese, said **Chiumento** was correct and the city would lose in court.

One problem with the current ordinance is that it does not require owners of existing properties to pay if the land has not been platted, even if it sends stormwater flowing into city canals and ditches, City Manager Jim Landon said. During a workshop Tuesday, officials did not back off charging stormwater fees for undeveloped land. But they did drop a requirement that a parcel would have to be at least 5 acres before its owner could apply for discounts, such as for having a retention pond on the property.

That change pleased Lea A. Stokes, president of Preferred Management Services, which represents 17 clients including 2,000 residential units and four commercial parks.

"I'm glad to see the proposed thresholds have been removed," Stokes said Tuesday. "That's advantageous to our clients."

Landon said the credit just didn't seem worth it for smaller parcels.

"The engineers were basically saying that if you are so small, the amount of credit you receive doesn't make it worthwhile," Landon said. "But that was one of the complaints and that's fine. We will just do all of them."

Homeowners would not see a change in their stormwater utility fee of \$8 per month, which is a guideline for how the city would bill bigger properties.

But Stokes remains unhappy with the city's proposed appeals process that would require landowners to pay for engineers to make their case by showing the land contributes less water or no water to the city's stormwater system.

If the landowner does not have an engineer, he or she can pay the city to perform the work.

"I'm not happy about that," Stokes said. "The numbers are very substantial."

But Landon said it's customary that the person who would receive the benefit would pay. He added applicants are free to hire their own engineer or if they already have the information just present it to the city.

Another complaint has been that the stormwater fee is a tax. But Garganese said Tuesday there is no "bright line" between a fee and a tax and some elements in each overlap. The intent of this ordinance is not to impose a tax but to impose a fee, Garganese added.

"Mathematical exactitude" is not required in the technical and complicated ordinances, he said.

"There are various ways to slice the proverbial cat," Garganese said.

When some council members objected, saying Mayor Jon Netts has a cat, Garganese rephrased.

"There are different ways to slice the proverbial pie, mayor," Garganese said.

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