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Forks plows \$166,000 into land dispute

KMRD: Developer's lawsuit more than doubles legal costs over three years.

By Christopher Baxter

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More than two years of hearings to fight a developer who claimed Forks Township discriminated against low-income and affordable housing has cost taxpayers almost \$166,000 in legal fees, according to township records.

Legal costs have more than doubled in the past three years because of the entanglement with KMRD LP, said Jim Farley, finance manager. The township budgeted \$150,000 for legal expenses in 2008, up from \$70,000 in 2005.

The tally includes bills for legal counsel, professional witnesses, research experts and stenographers, Farley said.

"Overwhelmingly, our residents asked for us to fight this, and the board did what residents wanted," he said.

The township will probably incur more costs following the zoners' Oct. 20 decision against the developer of Kings Mill, whose attorney has promised an appeal to Northampton County Court.

KMRD LP originally sued in 2006, alleging the township's Farmland Preservation District ordinance unfairly discriminated against multiple units and affordable housing. Kings Mill called for more than 3,000 apartments, townhouses and mobile homes to be spread across 545 acres of farmland east and west of Richmond Road and north of Newlins Road. But the zoning for the land restricts building there to one unit per 3 acres. A series of more than two dozen hearings followed.

"It's amazing how much we spend to uphold our open space and zoning from attacks," said Supervisor Chairman C. David Howell. "Unfortunately, it's a necessary budget consideration."

Township officials had several opportunities to suspend the suit and discuss ways to avoid the long and costly litigation, including a resolution presented in October 2007.

Solicitor Karl Kline said at the time that "some kind of middle ground acceptable to both parties" would "in all likelihood be preferable to several more years of litigation."

But zoners denied KMRD LP's request to suspend the proceedings Oct. 2, 2007, and the board of supervisors reached a similar decision two days later by a vote of 3-2.

Former Supervisors David Hoff and John Ackerman -- who vacated their positions at the end of 2007 -- voted in favor of the suspension, which would have probably saved taxpayers thousands of dollars.

"Obviously, suspending the litigation and coming to an agreement would have cut down on litigation costs," Hoff said. "But, for me, it was a matter of hearing what they had to say. If it didn't work out, we could go back to where we were and finish the hearings."

The current board has made clear at recent meetings that it is committed to the litigation regardless of the cost and will not negotiate with the developer.

Costs of the lawsuit to date come as supervisors grapple with a tough budget year, which includes declines in tax and

building permit revenues, \$345,000 of frozen capital projects, \$49,000 in spending cuts and a proposed 10 percent property tax increase.

At a budget meeting Wednesday, officials recommended reducing legal fees by \$10,000 in 2009.

"I think all litigation, the defense of township action, is always an unexpected item in any budget and does have an impact," Howell said. "But the record and the arguments are now settled. It's now the matter of an appellate review, so attorney time is at its minimum."

Supervisors are expected to consider tentative approval of the 2009 budget Thursday.

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