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City settles with Save Lafayette for \$650K to cover legal fees

By Nick Marnell

In a settlement agreement approved by the city council, Lafayette agreed to pay \$650,000 in legal fees to the attorney representing Save Lafayette, a nonprofit that supports slow growth and the preservation of the city's semirural character. The settlement capped a legal fight over the Deer Hill Road housing development that has gone on for years.

To facilitate the Deer Hill development with the O'Brien Land Company, the city passed an ordinance in 2015 changing the parcel zoning designation from office buildings and administrative to allow the construction of 44 single-family homes. Save Lafayette filed a referendum petition challenging the ordinance, but the city refused to repeal the ordinance or put it up to popular vote. The nonprofit sued the city, lost, then won on appeal, and Lafayette placed the Homes at Deer Hill referendum on the ballot in June. Voters rejected the ordinance.

The court set a November date for a hearing on the resolution of a claim by Save Lafayette for its legal fees, but the city agreed to settle on Sept. 10.

"We were fighting for the public's right to vote," said Michael Griffiths, spokesman for Save Lafayette. "The city's goal was to deny the right to vote, and we knew they would lose."

Lafayette Mayor Don Tatzin said the city did not put the moratorium on the ballot immediately because it relied on case law that had been overturned. "Because Save Lafayette won, we had to make the payment," Tatzin said.

Typically, when a municipality approves a project like the Homes at Deer Hill, the applicant indemnifies the municipality regarding the costs of litigation or referendums related to the project. Per the settlement agreement, O'Brien was required to indemnify Lafayette for the expenses, costs and fees the city incurred in the lawsuit.

According to Jennifer Wakeman, Lafayette financial services manager, the city received a \$650,000 check from O'Brien on Sept. 19, and the city paid that same amount to the Save Lafayette attorney, Gary Garfinkle, the next day.

Reach the reporter at: nick@lamorindaweekly.com

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