

## Stockton will transfer \$34M to settle suit

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Stockton Arena opened in December 2005.

Craig Sanders/The Record

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March 25, 2009 12:00 AM

STOCKTON - The city will transfer about \$34million from its crippled general fund to its water and sewer accounts over 30 years, settling a lawsuit by a former city finance chief claiming the city illegally raided its utilities to fund unrelated projects and services, including construction of a ballpark and arena.

The City Council's authorization of the settlement Tuesday came two years after a report, "Pillaging the Public Trust (A Primer on the Plundering and Misuse of Public Funds)," in which retired Stockton Finance Director L. Patrick Samsell claimed officials took millions of dollars from restricted funds to build the downtown Stockton Arena and Stockton Ballpark.

"It wasn't an ethical approach," Samsell said.

Samsell, Jim Watson and the Howard Jarvis Taxpayers Association claimed in 2006 that the city had overcharged residents for water and sewer services since 1997. Their lawsuit challenged a "fee in lieu of property tax" used to reimburse the general fund for indirect costs incurred by the utilities, such as for police and fire protection at a pump station or for the use of city-owned land.

About \$10.9 million also was used to build the \$135million Stockton Events Center, which includes the arena and ballpark.

The settlement requires the city to pay back from its general fund to its water and sewer funds slightly more than \$1.1million annually for 30 years beginning in July 2010.

"It's an impact that we have to plan for," said City Manager Gordon Palmer, who already was nursing a general fund budget whose deficit is expected to reach \$30million by June 2010.

The fee in lieu of property tax, which cost a typical ratepayer about \$66 a year, had been in place since 1978 but was lifted by the city after Samsell and the Jarvis group filed suit. Their lawsuit followed state court rulings that such a fee could not be used for anything other than the service for which it is charged.

City Attorney Ren Nosky said transfers of money to the general fund were legal when the city made them but that now "the law is pretty clear on this."

Instead of the fee in lieu of property tax, a blanket payment to the general fund, the city now has its utilities reimburse the general fund based on a more detailed accounting of costs. The city annually transfers about \$3million from the utilities to the general fund, about half what was transferred using the fee in lieu of property tax, officials said.

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