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| |
|--------------------|
| SECTIONS |
| Front Page |
| News |
| • Area News |
| • Talladega |
| • Childersburg |
| • Sylacauga |
| • Pell City |
| • Talladega County |
| Sports |
| Lifestyle |
| Religion |
| Opinion |
| Columns |
| Obituaries |
| Lakeside Living |
| Classifieds |
| Legals |
| ARCHIVES |
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| SERVICES |
| Business Directory |
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PELL CITY

City faces lawsuit for sewer, impact fees

By David Atchison
05-17-2007

PELL CITY — The St. Clair County Home Builders Association, along with two local builders, filed a lawsuit against the city for enacting new sewer and impact fees.

The lawsuit, filed Monday in St. Clair County Circuit Court against the city, also names the mayor, City Council and other city officials who were involved in establishing the new sewer impact and water capital recovery fees.

The suit was filed by Birmingham attorney Jesse Evans III, with the law firm of Haskell, Slaughter, Young & Ridker LLC, on behalf of the St. Clair County Home Builders Association, Bucky Inc. and OCC Inc.

The lawsuit alleges the city is not authorized by the state Legislature to assess sewer impact fees and water capital recovery fees, that the fees are unconstitutional and injure builders, new homeowners and those seeking to relocate in Pell City.

"We just felt like we had to make a stand for the builders, developers and for the people of Pell City," said Roy Stodghill of Springville, president of the St. Clair County Home Builders Association. "We didn't feel like it was implemented fairly."

Mayor Adam Stocks said Wednesday he believes the ordinance passed by the City Council last month implementing new sewer impact and water capital recovery fees is on solid legal ground.

The lawsuit also alleges fees have adverse impact on residential and commercial development in Pell City, and builders and new homeowners were unlawfully singled out to bear the financial burden for the repair and maintenance of the city's sewer and water system.

"If home builders are so against these fees maybe we need a moratorium on new home construction in Pell City," Stocks said. "Obviously that is not what

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I want or the home builders want. We have to prepare this city for growth and this is one way to do that."

The council, with a 3-2 vote, passed the sewer impact and water recovery fees, with Councilmen Greg Gossett and Ed Pennington voting against the ordinance. Although Gosset and Pennington said they did not agree with how the fees were structured, they did agree the city needed the impact fees.

Stocks said the new sewer impact and water recovery fees are fair and justifiable.

"If they were not, we would not have passed these new fees," he said.

But Stodghill said Wednesday it is the home builders, developers and new home owners who are carrying the burden to subsidize the repairs and maintenance of the city's sewer and water systems, and the new fees are going to hurt growth in Pell City.

He said fees will add about \$5,000 to the cost of a new home in Pell City.

Stodghill said a 200-home subdivision will cost a developer \$1 million above and beyond existing city fees, and a commercial strip mall with 10 shops will cost about \$50,000 more to develop.

St. Clair County Circuit Court Judge Jim Hill will hear the case.

The plaintiffs in the case have also filed a preliminary injunction asking the courts to delay implementation of the fees until this case is resolved.

"I guess that's why we have judges and courthouses," Stocks said. "This will not be the first impact fee to be challenge in court. ... I guess we'll let the courts decide."

About David Atchison

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