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PELL CITY

Builders to appeal Pell City impact fee ruling

By David Atchison
 11-19-2008

PELL CITY — An attorney representing local home builders said the group will challenge a court ruling allowing the city to charge sewer impact and water recovery fees.

"I would expect the appeal process to begin within the next 30 days," said Charles Robinson Jr., one of three attorneys representing the St. Clair County Home Builders Association and two local builders, who filed suit against the city last year after the council passed ordinances establishing sewer impact and water recovery fees.

Last week, St. Clair County Circuit Court Judge Jim Hill ruled in favor of Pell City, saying the City Council acted within reason, and their actions were valid in establishing fees earmarked for future development of the city's water and sewer systems.

"Obviously, we certainly respect the position Judge Hill has, but we disagree with his opinion in this case," Robinson said, adding that the plaintiffs have 42 days to file an appeal in the case. "This is a remedy available to us for an opinion we do not agree with."

On Nov. 10, Hill ruled: "... the city did not act in a manner that is arbitrary or capricious and, consequently, the attack on these ordinances is due to be denied and the ordinances upheld."

The plaintiff's lawsuit alleged the city was not authorized by the state Legislature to assess sewer impact and water capital recovery fees, and those fees were unconstitutional and injured builders, new homeowners and those seeking to relocate in Pell City.

City officials contend the fees were necessary to help pay for future upgrades to the water and sewer systems in one of the fastest growing cities in the state.

"We're pleased with Judge Hill's decision," city attorney Robert Minor said last week. "He carefully listened to the testimony and rendered a well-reasoned opinion."

Minor said money currently collected by the city from sewer impact and water recovery fees is kept in separate city accounts.

"Money will continue to be held until this case reaches its final disposition," Minor said.

As of September 2008, the city had collected \$223,145 in sewer impact and water recovery fees since the fees were established in April 2007.

About David Atchison

David Atchison is Pell City news editor for The Daily Home.

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

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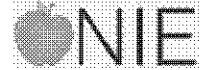
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