# Zoning battle could spill into court

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WALHALLA — The Oconee County Council is one step closer to having to defend its zoning decisions in court.

Local attorney Roberta Barton announced to council Tuesday night that she is representing the interests of North Fairview property owners Jean Jennings and David and Michelle McMahan.

"I'm here before you to ask one last time for you to take a motion to repeal Ordinance 2010-15 and 16 based on numerous constitutional violations," Barton said.

Among other things, Barton questioned the county's notification process to landowners as being "insufficient, misleading and confusing."

The latest assault against the county's Zoning Enabling Ordinance and the council's implementation of the same comes on the heels of a series by The Journal based on emails obtained from the county through a Freedom of Information Act request.

Jennings and the McMahans argue that the emails show a pattern of mostly one-sided communication between county officials and members of Advocates for Quality Development Inc. aimed at thwarting their request for Traditional Rural District zoning.

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Councilman Paul Corbeil and AQD President Jim Codner have denied collusion in the process. Codner sponsored the Cane Creek petition contained in Ordinance 2010-15, which conflicted with the request made by Jennings and the McMahans contained in Ordinance 2010-16.

Ultimately, council voted to give Jennings and the McMahans a more restrictive Agricultural Residential District classification.

Barton read at length from a statement in which she attempts to establish a basis to repeal the two ordinances, including ex-parte communication demonstrating partiality on the part of county decision makers. Specifically she pointed at emails in which Corbeil is seen communicating often with AQL members Codner, Chuck Smith and Gary Owens.

Council Chairman Joel Thrift interrupted Barton from completing her statement with his gavel because she had used up her time.

"We'll be forced to go to court then," Barton said.

David McMahan, who was to speak next, rose up from the audience and volunteered to give up his time to let his attorney finish.

"You can't do that," Thrift said.

McMahan used his time to urge Councilman Wayne McCall, who has supported the Jennings and the McMahans, to ask that the county release emails it has kept from being made public by citing attorney-client privilege.

McCall asked County Administrator Scott Moulder for the emails to be made public, excluding personnel or legal matters, or a violation of attorney-client privilege.

Later, Moulder explained that he could not comply based on the request of an individual councilmen, and that such a request must be made by a majority of council, according to state law.

A motion asking for such a vote never came.

During his Administrator's Report, Moulder told council that he had filed an appeal on Walhalla's zoning decision that is blocking plans for a new jail.

Moulder said there is a time limit for filing an appeal and he did not want to close the door to that option. He is still hopeful of finding a solution with Walhalla.

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