

Court Petition Has City Doling Out Big Bucks in Legal Fees

By Heather Wagner
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In regular business, Council considered the February 2014 Financial report. Alderman Allen Hopson questioned the amount over the budget that has been spent on legal fees so far for this fiscal year.

The council budgeted \$20,000; to date, the City has spent approximately \$29, 949. City Manager Brenton Lewis attributed about \$18,000 of the expenditure to a lawsuit that was brought against the City. The original petition was filed in the 33rd District Court in June of 2013 by Llano Citizen Marc Sewell, requesting the judicial review of 'illegal zoning actions'. The alleged illegal zoning actions occurred when the City approved an Overlay District at the June 17 regular council meeting.

The petition was summarily denied by District Judge Allan Garrett. In an email to Sewell, District Clerk Lisa Bell told Sewell it was denied "because you were told that you needed to notice the opposing sides and then set it for a hearing and you informed us that was not necessary. The Judge reviewed it by submission and denied your request."

In an email to the Court, Sewell says, "Most would say that zoning laws are a violation of property rights. I believe that the authors of the Texas Zoning Laws realized this and were extremely diligent in crafting citizen protections into the law. The section on notification is detailed and simple and meant to assure property rights are not secretly stolen by government."

In a statement to the paper, Sewell said, "I requested a judicial review of a zoning decision made by council and P&Z that I determined was illegal. A judicial review is a different process than a lawsuit and merely requires the city to answer my complaint to the judge, Judge Garrett. In my case, all the city had to do was justify Brenton Lewis's statement that zoning ordinance usage changes are "text" changes and not "regulation" changes. To date with all the legal filings, he has not explained that. Had he answered that single question, then no legal fees would have been incurred. The distinction between text and regulation deprived 79 citizens their property rights. I am pursuing this because I am disgusted by the city's continuing misinformation and violation of the law."

Sewell said that he sought help on how to present the case, either criminal or civil and was unable to determine the best course of action.

He says "I was told countless times to hire a lawyer. I don't believe this is in the spirit of Section 201.011 but I tried anyway. Two local attorneys declined to assist as did a very expensive municipal law expert in Austin. It shouldn't be this difficult. If I were getting divorce[sic], the county website gives me the process and the forms. But nowhere could I find a process for Judicial Review."

In his email, he says, "I am just asking the Court to determine: "is a property usage change a text

change or a regulation change?””

In October of 2013, Sewell petitioned the Third Court of Appeals to hear arguments on the case. The Court of Appeals Number is 03-13-00580-CV, Marc Sewell v. City of Llano, Brenton Lewis, Diane Firestone, Letitia McCasland, Marcy Methvin, Todd Keller, Jeanne Puryear and Tom Milam. On January 29, 2014, the Third Court of Appeals ruled that it had no jurisdiction over the case, and dismissed the appeal.

On February 11, 2014, Sewell filed a motion for rehearing, which was overruled on February 19, 2014.

In his appeal, he argues, “I was denied a judicial review because Judge Garrett did not follow the process in the law. I am now being denied an appeal because Judge Garrett said “disposed” in an email instead of his Order. City Manager Brenton Lewis and City Attorney Carey Bovey commit aggravated perjury in this high court and it is moot. The City of Llano denied 79 Llano citizens their property rights without repercussion. This is not right. Something is wrong with the Texas Judicial System.”

“The reason for the appeal was not because the district court found Brenton was correct but because Judge Garrett did not follow the law defining judicial review and erroneously refused to initiate the judicial review. This is now being reviewed by all 5 judges at the Third Court of Appeals,” Sewell said in a statement.

On March 6, Sewell filed a motion for en banc reconsideration. The final motion, for which no decision has been rendered, asks that the court reconsider previous dispositions and states that Sewell’s base complaints have not yet been addressed.

Mayor Mikel Virdell declined to issue any comments, because there are still motions pending in the court. City Manager Lewis did not immediately return emails.

The additional \$11,000 in legal fees was spent reviewing contracts, according to Lewis.