

## **Recent denial of bottled water plant being challenged in court**

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By Rachael Anne Ryals

GILCHRIST COUNTY – A recent decision to deny a bottled water plant on the Santa Fe River is being challenged in court.

Blue Springs Properties has filed a motion stating that the Gilchrist County Commission did not follow the due process of law when the Commission denied the special permit for a bottled water plant at a meeting in September.

If a judge approves the motion, then the request for a special use permit for a bottled water plant could go back before the Gilchrist County Commission as if the first meeting never happened.

More than 250 people showed up at that meeting to voice their opposition to the bottled water plant. The meeting started at 6:30 p.m., and a final decision was not reached until 12:30 a.m. when the Board denied the plant by a 4-1 vote.

The motion states that the Board did not follow the law because it based its decision on “generalized statements” from the audience instead of expert witnesses.

The motion also states that the Board did not follow the law because the county did not allow all the witnesses to be cross-examined, as is required in a quasi-judicial meeting, which means the meeting was to be held under courtroom-like rules.

“In this matter, the only professional planning person that offered testimony at the hearing was Taylor Brown, who is employed by Gilchrist County as a professional urban planner,” the motion states. “Mr. Taylor clearly and unequivocally testified that the application complied with the county's comprehensive plan and recommended approval of the facility.”

The motion states that the Board instead based its decisions on generalized statements from the audience members, who were not allowed to be cross-examined; so, therefore, the Board should not have considered those statements when making its final decision, the motion states.

At one point in the meeting, the attorney representing Blue Springs, Ray Earl Thomas Jr., tried to cross-examine a 13-year-old girl but the Gilchrist County attorney stopped him from doing so.

Of the more than 100 people who spoke at the meeting, 11 were cross-examined, but the motion states that even this testimony should not be included as evidence.

“None of the 11 citizens that were actually subject to cross-examination were qualified as experts or professed to have any special knowledge of the subject area,” the motion states.

At one point in the long meeting, the Gilchrist County attorney, John McPherson, told Thomas that he was not allowed to cross-examine those who chose not to subject themselves to cross-examination.

McPherson told the Board to keep in mind that the testimony being presented by the dozens of residents was not expert opinions.

The Board's final reasons for denying the permit included a lack of harmony with existing residential and agricultural land uses in the area, a safety concern from an increase in truck traffic and the belief that the plant was not consistent with the county's vision statement.

The Suwannee River Water Management District, the entity that awards the permit needed to withdraw water, had tried to revoke the Blue Springs permit several times for inactivity since it was issued in 2003.

But litigation resulted in the permit being valid for another year while approval for a special use permit for a bottled water plant from the county was sought.

Part of that settlement stated that if the county denied the permit for a bottled water plant, then the district would revoke the water use permit.

But the district will not revoke the Blue Springs water use permit until the current litigation is settled, said Jon Dinges, director of Resource Management at the water district.