

# Long-running drainage dispute nearing end

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**JONESBORO** — A dispute dating back to 2006 between a local developer and the City of Jonesboro may finally be resolved in a few days.

The dispute involves the amount of flood control measures the city required of developer Bruce Burrow when building Kohl's, 2117 Fair Park Blvd.

Burrow alleged in his 2009 lawsuit that unnecessary drainage cost his company more than \$450,000.

The case had been inactive until this year when a new attorney took over the case on Burrow's behalf.

On Aug. 29, Craighead County Circuit Judge David Laser ordered the two sides to attempt mediation.

Attorney C. Burt Newell of Hot Springs, who represented the city, said mediation produced a proposed settlement of \$187,500. Of that amount, \$150,000 would be paid by the city. The remainder will be paid as part of the city's membership in the Arkansas Public Entities Risk Management Association, Newell said.

Newell said he and Mayor Harold Perrin believe it's a fair settlement.

"We certainly don't feel like we did anything wrong, but a lot of times that's not the most important thing to consider," Newell said Thursday.

Newell said he will ask the Jonesboro City Council to approve the settlement on Tuesday.

"The council may determine that they don't want to approve it and if that's the case, I still think we can do a fine job of defending the city," Newell said.

It was a complex case made more difficult by the health of the city's primary witness, Claude Martin, who retired as the city's engineer and flood plain manager in 2007, Newell said.

"The actual facts that we were dealing with occurred in 2005," Newell said.

During that time, the city was participating in a cooperative technical agreement with the Federal Emergency Management Administration to update its Flood Insurance Rate Map (FIRM) to a digital format. The federal and city governments hired a consulting engineering firm, then known as Carter & Burgess, to perform the study countywide.

Burrow and his engineers relied on the FIRM that existed at the time when planning the development.

Martin, using new calculations from Carter & Burgess, required Burrow to build a detention pond to prevent downstream flooding in Whiteman's Creek. Burrow's engineer contended the new calculations by Carter & Burgess didn't consider 70 years of historical data

compiled by the Army Corps of Engineers in Memphis.

Another independent engineer was then hired to review the Carter & Burgess calculations, and he agreed with Carter & Burgess.

As Burrow's deadline to deliver the site to Kohl's neared in 2006, then-Mayor Doug Formon suspended issuance of certificates of occupancy, pending a FEMA review. Formon said FEMA officials suggested the suspension.

Burrow then went ahead with construction of the detention pond, on top of the widening and lengthening of the creek.

A week later, FEMA's flood plain specialist concluded Martin was doing a good job, but needed more enforcement power.

The store opened on schedule, but Burrow alleged in July 2007, "We were blackmailed by the city into doing a drainage project behind Kohl's."

Disputes over the Carter & Burgess study continued into March 2009, when Formon fired the company during a meeting with FEMA officials in Dallas. Alderman John Street, chairman of the council's public works committee, said the company's calculations showed the base flood elevation for that part of town would have been four feet above the floor of NEA Baptist Memorial Medical Center, which had never flooded since it was built in 1976.