

March 1, 2000

**CALLED MEETING
FLOYD COUNTY BOARD OF COMMISSIONERS
March 1, 2000 5:00 P.M.**

PRESENT: Interim Chairman John Mayes, Commissioners Chuck Hufstetler, Garry Fricks, and Jerry Jennings.

OTHERS

PRESENT: County Manager Kevin Poe, County Attorney Wade Hoyt, County Clerk Sue Broome, and Assistant County Manager Tom Tully.

CALL TO ORDER: Interim Chairman Mayes called the meeting to order.

INVOCATION: Interim Chairman Mayes led the Invocation.

PLEDGE OF

ALLEGIANCE: The Pledge of Allegiance was led by Interim Chairman Mayes.

ANNOUNCEMENT OF MEETING:

Interim Chairman Mayes stated the first order of business is to make an appointment to fill the unexpired term of Kim Canada, Post 1, whose term expires December 31, 2002.

Interim Chairman Mayes announced this is a Special Called Meeting, and he has polled the Commissioners and they agree that they can have public participation and stated those who wish to participate will be allowed three (3) minutes each to speak.

PUBLIC PARTICIPATION:

Alvin Jackson, Sr., 26 Conn St., Rome, asked the Commissioners to table the appointment process they are about to go through stating the reason he is asking this is due to the recent legislation signed by the governor he thinks the process is unnecessary, he thinks the voters of Rome and Floyd County should have an opportunity to make this decision, the same people who elected the current board should have an opportunity to fill this vacancy. Mr. Jackson stated the Board is about to take a giant step, a step that is going to say that for the next three years you are going to put this person in office and it has so far been a difficult process for you. Mr. Jackson stated at this point in time there are certain legal ramifications that could come about, there are certain things that even he does not understand about the process, it is possible that the justice department can issue a pre-clearance on this legislation that has been signed. Mr. Jackson stated his main concern is the citizens of Rome and Floyd County, he understands the Board has been dealing with this process since November 16th, in the governor's opinion when he went back and said that Kim's (*Canada*) resignation was acceptable as of November 16th you had 45 days to pick a person, we've followed your process, everything you put in place, we went through those mechanics and yet no one was appointed during that 45 day period – that is a serious legality. Mr. Jackson stated the other thing is it is guaranteed by the constitution of this United States that people have the right to vote and the Board is in a position today to nurture that position, you have an opportunity to let the people of Rome and Floyd County choose the candidate of their choice and not of yours, this should be a process that you should be willing, since you went to the state legislature and asked them to draft this policy, so there are a lot of unanswered questions – this could possibly end up in a lot of litigation and one way to ensure that is to table this matter until more information is gained from the US Justice Department, and from the US Attorney General's Office, he thinks it needs to be looked

into further, his main concern first and foremost is that the citizen's have a voice in this, that the people who elected you to do this job that you didn't do in the 45 day period that you were allotted under your stipulations now it should be the people's choice – they should be given the choice. In closing Mr. Jackson stated that many of you have said that the election could cost money, some \$14,000, in the words of Dr. King the price of freedom has always been an expensive thing, and reiterated that people have given their lives for the right to vote so money should be no problem and asked that they consider this, table this, until further information can be gained and most of all he hope you go to the election process.

**APPOINTMENT TO FILL THE UNEXPIRED
TERM OF KIM CANADA, POST 1, TERM
EXPIRES DECEMBER 31, 2002:**

Interim Chairman Mayes read the following "When special circumstances occur and are so declared by an agency, that agency may hold a meeting with less than 24 hours' notice upon giving such notice of the meeting and subjects expected to be considered at the meeting as is reasonable under the circumstances including notice to the county legal organ or a newspaper having a general circulation in the county at least equal to that of the legal organ, in which event the reason for having the meeting within 24 hours and the nature of the notice shall be recorded in the minutes. O.C.G.A. 50-14-1(d)."

Interim Chairman Mayes opened the floor for a Motion.

Commissioner Hufstetler asked if the reading by Interim Chairman Mayes is saying that this is an emergency action.

County Attorney Wade Hoyt stated that the Chairman has called an Emergency Meeting, which does not require a twenty-four hour notice. Mr. Hoyt stated notice has been given by the staff as reasonably as possible to all the news media, which is obvious by the fact they are here, and he has personally talked to *The Rome News* this morning at about 8:10 a.m. Mr. Hoyt stated what is required at this point is to state in the minutes why there was an emergency called meeting and asked that he be allowed to explain – it is his understanding that the emergency meeting was called for two reasons (a) because the Board decided it needed closure to this matter, and (b) it was discussed yesterday the time constraints they may be under with the Justice Department and there would be some risk if you let yourself go into the election process, and the Board decided that they wanted to get this matter over with so they could have closure and get on with their five member Board, and that is his understanding of why an Emergency Meeting was called and asked if this was correct.

Interim Chairman Mayes stated this is correct.

Commissioner Hufstetler stated, in question, that this would be a case where this particular course of action couldn't wait? Mr. Hoyt stated it could wait as long as the Board wanted to wait, as was discussed yesterday, it is just that the Chairman called an Emergency Meeting and the Board is required to indicate in the minutes why the Emergency Meeting was called, but they could wait until next week, or the week after or whenever they wanted to do this, dependant on what was discussed yesterday.

Commissioner Hufstetler asked if there was anything in writing, from legislative counsel, that this is the direction the Board should take – anything from the Attorney General? Mr. Hoyt stated no, that he had tried to get the State Elections Commission to put something in writing to him, however, they told him they do not do that, and apparently they told *The Rome News* the same thing because it was clear in their article that the State Elections Commission agrees, the State Attorney General Dennis Dunn, who he had talked to, did not put anything in writing, the US Justice Department in Washington does not put it in writing and did not indicate any willingness to do so, Legislative Counsel he has talked to was not asked to put it in writing, he (Mr. Hoyt) just relayed to the Board what he said to Mr. Hoyt. Mr. Hoyt told the Board if they wanted all of this in writing he will try to get it, but there is nothing at this point, there is only his report to the Board of what the individual said to him.

Commissioner Jennings stated that basically what has been said to Mr. Hoyt is that the opinion of legal counsel is that the Board move forward under the previous policy of the County

Commission in terms of the Commission making the selection for the full term, as we were operating back in November when the process began.

Mr. Hoyt stated his final question to all those individuals was to allow him to bring back to the Board what they considered to be the safest choice. Mr. Hoyt stated the second choice is available to the Board, however, the new law has not been approved by the Justice Department, and he would love to tell the Board that he knows when the Justice Department will approve this – he does not, he would like to tell the Board for sure that they are going to approve it – he cannot, he said he could tell you that Muscogee County assumed there would be an approval and their whole election was set aside, so we have to be careful with this and what he has presented to the Board is what everybody thought was the safest course of action, that as we sit here today the new law is not in effect, everybody agrees to that, and since it is not in effect the appointment process falls back to the prior law, period, and as we sit here today you can make that pick under the prior law, or you can set your election process in motion, you can hope the Justice Department approves it in time, and remember as we discussed yesterday you have 29 or 30 days left in your new 45 day period, if you don't make a pick in 29 or 30 days it falls back into the governor's lap, if you don't get an approval from the Justice Department within 29 or 30 days the matter reverts to the governor and he cannot tell right this minute what that would mean, he will figure it out if that is what the Board wants to do.

Commissioner Jennings stated in light of all these factors, that is why yesterday the Board made the decision, and he supported the decision, to move ahead with the selection and not risk holding an election and having it cast asunder because we did not have approval to do so.

Commissioner Hufstetler stated he did not want to have it without approval, as he agreed with it yesterday, he said unless the approval could be quick. Commissioner Hufstetler stated he thought Alvin (*Jackson*) had said that the approval process could be a little bit quicker than that, can he state to us what...

Interim Chairman Mayes stated Alvin is not the Board's legal counsel.

Commissioner Hufstetler stated that apparently he had conversations before the meeting where they said it could be approved within 7 days.

Commissioner Fricks stated his intention all along has been he would love to see it put back in front of the voters, but he thinks this situation we are posed with right here is we have to come to a decision, this thing has gone long enough and we have to get back to doing county business instead of dealing with this.

Commissioner Hufstetler asked County Attorney Hoyt if he feels like this will be challenged. Mr. Hoyt stated he would certainly hope not, and he believes that if it is challenged the Board is on the strongest ground they can be on, no one can challenge that the new law is effective - it is not effective as we sit here today, it is the Board's discretion as to which one of the procedures to pursue, whether you take your chances with a special election or whether you appoint today. Mr. Hoyt stated it is his opinion, since that is in your discretion those folks could challenge, but in his opinion would not be successful.

Interim Chairman Mayes stated the floor is open for a Motion. Commissioner Fricks made a MOTION to appoint Tim Mahanay to fill the unexpired term of Post 1 which was vacated by Kim Canada, SECOND by Commissioner Jennings.

Discussion: Commissioner Hufstetler stated he was slightly misquoted in the paper today, that while he did say that it is firmly his opinion that we have an opportunity to put it before

the voters and that's the direction we should go, if the Board chose to appoint Tim Mahanay, if that was the route they wanted to go that he said he could support him because he thought he could make good decisions on the issues to come up, and somehow they reversed it in the paper.

Commissioner Fricks stated that in the initial process he did not support, or had reservations, about giving his support to Mr. Mahanay, but through a long process in considering the fact that this is a very important issue to him and the voters of Floyd County he has brought himself to realize that Mr. Mahanay is a man of integrity and a man of his word and he feels he is coming in and will give a very neutralized viewpoint on many of the issues we will be facing in Floyd County in the future. Commissioner Fricks stated it has not been an easy process and applauded Mr. Mahanay on his integrity, and as we have gone through the process probably Mr. Mahanay has shown more strength in understanding the Board's concern and questions they have given to him, adding he thinks some of the public hasn't quite understood that as well as Mr. Mahanay has.

Interim Chairman Mayes stated Mr. Mahanay has proven that he has what it takes to be a Commissioner.

Commissioner Jennings echoed the sentiments, adding he has known Mr. Mahanay over the years and he certainly is a gentlemen of integrity and he looks forward to having him as a colleague on the Board.

VOTING:

YES

NO

Commissioner Hufstetler

" Fricks

" Jennings

Motion Carried

**DISCUSS MATTERS RELATED TO
2000 BUDGET:**

County Manager Kevin Poe advised he has drafted a letter to go to Representative Paul Smith, requesting that he introduce legislation to increase the local homestead from \$5,000 to \$8,000 and it would apply to Floyd County Government M&O Tax Levy, it would not include an increase in homestead exemption as it would apply to Floyd County Fire District, County-Wide School or City of Rome Maintenance and Operations. Mr. Poe stated that to make sure there is no discrepancy in what the Board is requesting they have been asked to contact either Al Leonard or himself to provide any clarification of the issue. Mr. Poe stated it is his understanding that the local legislation, if approved by the General Assembly, would put this as a referendum question on the ballot to the voters in the November general election, and if approved it would go into effect in calendar year 2001.

Commissioner Hufstetler stated since the tax is on a 40% assessed value, that this will take \$7,500 of every homeowners appraised house value off the tax roles, an additional \$7,500 appraised house value will be tax exempt on the county M&O taxes. Commissioner Hufstetler stated that combined with what the state has done last year, and what they are going to do this year in the budget, a year ago it was the first \$12,500 that was tax exempt and between the state and county this will be increasing it to \$30,000 tax exempt property which will provide a good help for every homeowner.

Commissioner Jennings asked the County Attorney if the letter is communicating what the Board is seeking to communicate with the legislative delegation. Mr. Hoyt stated he feels it is a specific enough letter that he thinks we will get back what we ask for. Mr. Hoyt stated that he thinks the legislative delegation would like to see this put on the agenda today, and vote it, however, since it was not a part of the emergency notice, he asked that the Clerk also put it on the agenda for the next regular meeting and do it again.

County Manager Poe added that an opportunity has been added for each commissioner to sign the letter so the legislative delegation will know there is unanimous support from the commission to proceed with the legislation.

4/4 VOTE TO ADD ITEM TO AGENDA

**INTRODUCTION OF LEGISLATION TO
INCREASE LOCAL HOMESTEAD EXEMPTION:**

Commissioner Fricks made a Motion that the item be added to the agenda, SECOND by Commissioner Hufstetler. VOTING:

YES

NO

Commissioner Hufstetler

" Fricks

" Jennings

Chairman Mayes

Motion Carried

Commissioner Hufstetler made a MOTION to approve a letter to the legislators asking them to raise the Homestead Exemption on M&O county-wide taxes by \$3,000, SECOND by Commissioner Fricks. VOTING:

YES

NO

Commissioner Hufstetler

" Fricks

" Jennings

Motion Carried

ADJOURNMENT:

There being no further business to come before the Board, MOTION was made by Commissioner Hufstetler, SECOND by Commissioner Fricks, that the meeting be adjourned.
VOTING:

YES

NO

Commissioner Hufstetler

" Fricks

" Jennings

Motion Carried

COMMISSIONERS

FLOYD COUNTY BOARD OF

JOHN W. MAYES, INTERIM CHAIRMAN