

Commissioner Mahanay presented a Proclamation proclaiming **September 18 – 22, 2000** as **United Way Week**. The Proclamation was accepted by Tony Neal of United Way.

RESOLUTION

**NAMING MONNIE TOOLE AS
ADMINISTRATIVE ASSISTANT/
DEPUTY CLERK OF THE BOARD.**

Chairman Mayes called for a Motion. MOTION was made by Commissioner Hufstetler that Monnie Toole be named Administrative Assistant/Deputy Clerk of the Board. SECOND by Commissioner Mahanay. VOTING:

YES NO

Commissioner Hufstetler
" Fricks
" Jennings
" Mahanay

Motion Carried

SECOND READING/PUBLIC HEARING

**AMENDMENT TO FORUM COMMITTEE BY-LAWS.
(FIRST READING HELD SEPTEMBER 12, 2000 AT 2:00 P.M.)**

Chairman Mayes called for a Motion to open the Public Hearing. MOTION was made by Commissioner Hufstetler to open the Public Hearing, SECOND by Commissioner Fricks. VOTING:

YES NO

Commissioner Hufstetler
" Fricks
" Jennings
" Mahanay

Motion Carried

County Manager Kevin Poe stated that the amendment is to add an ex-officio position. A representative of one of the colleges in the community will fill the position.

MOTION was made by Commissioner Jennings that the Public Hearing be closed, SECOND by Commissioner Hufstetler. VOTING:

YES

NO

Commissioner Hufstetler

" Fricks

" Jennings

" Mahanay

Motion Carried

Chairman Mayes called for a Motion. MOTION was made by Commissioner Hufstetler that the Amendment to the Forum Committee By-Laws be approved. SECOND by Commissioner Jennings. VOTING:

YES

NO

Commissioner Hufstetler

" Fricks

" Jennings

" Mahanay

Motion Carried

**FILE #027-2000Z, 265 GAINES ROAD
REQUEST REZONING FROM S-R
(SUBURBAN RESIDENTIAL) TO C-C
(COMMUNITY COMMERCIAL) TO
OPERATE A DAY CARE CENTER,
(19 PERSONS OR MORE), TAX MAP #132,
AREA #0, PARCEL #22C.
(PLANNING COMMISSION RECOMMENDATION:
CONDITIONALLY APPROVE FOR DAY CARE
ONLY [VOTE – UNANIMOUS])
(FIRST READING HELD SEPTEMBER 12, 2000
AT 2:00 P.M.)**

Chairman Mayes called for a Motion to open the Public Hearing. MOTION was made by Commissioner Fricks to open the Public Hearing, SECOND by Commissioner Jennings. VOTING:

YES

NO

Commissioner Hufstetler

" Fricks

" Jennings

" Mahanay

Motion Carried

There being no one present to speak for or against this matter, MOTION was made by Commissioner Hufstetler to close the Public Hearing. SECOND by Commissioner Jennings. VOTING:

YES

NO

Commissioner Hufstetler

" Fricks

" Jennings

" Mahanay

Motion Carried

Chairman Mayes called for a Motion. MOTION for **approval** of the rezoning request with

conditional approval for day care only. SECOND by Commissioner Mahanay.

VOTING:

YES

NO

Commissioner Hufstetler

" Fricks

" Jennings

" Mahanay

Motion Carried

FILE #028-2000Z, U.S. HIGHWAY 27 S. AT PRIMROSE ROAD, REQUEST REZONING FROM S-R (SUBURBAN RESIDENTIAL) TO L-I (LIGHT INDUSTRIAL) TO ALLOW OPERATION OF A PROPANE GAS SALES LOCATION AND FOR FUTURE DEVELOPMENT, TAX MAP #586, AREA #00, PARCEL(S) #3 & PART OF 58.

(PLANNING COMMISSION RECOMMENDATION:

APPROVE [VOTE – UNANIMOUS])

(FIRST READING HELD SEPTEMBER 12, 2000 AT 2:00 P.M.)

Chairman Mayes called for a Motion to open the Public Hearing. MOTION was made by Commissioner Hufstetler, SECOND by Commissioner Jennings. VOTING:

YES

NO

Commissioner Hufstetler

" Fricks

" Jennings

" Mahanay

Motion Carried

SUPPORT

Jim Givens, owner of the property, stated it is approximately a 27 acre tract of land. He stated that he is requesting the rezoning for only the portion, approximately 17 acres, which fronts U.S. Highway 27/411. He stated that the property to the south, east and north of the property are zoned Light Industrial. To his knowledge there are no objections with adjoining property owners.

Commissioner Mahanay noted that one report they had received indicates plans for construction of a mini-warehouse and another is for propane gas sales. Mr. Givens stated that the mini-warehouse was included in error, and he does not have any current plans to build mini-warehouses. He did state that he does have a contract to sell part of the property to a propane gas retailer.

Chairman Mayes called for a Motion to close the Public Hearing. MOTION was made by Commissioner Fricks, SECOND by Commissioner Hufstetler. VOTING:

YES

NO

Commissioner Hufstetler

" Fricks

" Jennings

" Mahanay

Motion Carried

Chairman Mayes called for a Motion to approve or deny. MOTION for **approval** was made by Commissioner Fricks, SECOND by Commissioner Hufstetler. VOTING:

YES

NO

Commissioner Hufstetler

" Fricks

" Jennings

" Mahanay

Motion Carried

**FILE #14-2000SUP, ROGERS DRIVE AND
REDMOND ROAD, REQUEST A SPECIAL
USE PERMIT IN A C-C (COMMUNITY
COMMERCIAL) ZONING DISTRICT FOR
USE FOR AUTO SALES AND SERVICE,
TAX MAP #438, AREA #01, PARCEL(S) #006.
(PLANNING COMMISSION RECOMMENDATION:
APPROVE [VOTE – UNANIMOUS])
(FIRST READING HELD SEPTEMBER 12, 2000
AT 2:00 P.M)**

Chairman Mayes called for a Motion to open the Public Hearing. MOTION was made by Commissioner Jennings, SECOND by Commissioner Mahanay. VOTING:

YES NO

Commissioner Hufstetler
" Fricks
" Jennings
" Mahanay

Motion Carried

There being no one present to speak for or against the rezoning request, Chairman Mayes called for a Motion to close the Public Hearing. MOTION was made by Commissioner Hufstetler, SECOND by Commissioner Fricks. VOTING:

YES NO

Commissioner Hufstetler
" Fricks
" Jennings
" Mahanay

Motion Carried

Chairman Mayes called for a Motion. MOTION for **approval** of the request for a Special Use Permit was made by Commissioner Hufstetler, SECOND by Commissioner Fricks. VOTING:

YES NO

Commissioner Hufstetler

" Fricks
" Jennings
" Mahanay

Motion Carried

**FILE #015-2000SUP, 2548 ALABAMA ROAD,
REQUEST A SPECIAL USE PERMIT IN A
C-C (COMMUNITY COMMERCIAL) ZONING
DISTRICT TO BUILD A COMMUNICATION
TOWER, TAX MAP #462, AREA #02, PARCEL(S) 002.
(PLANNING COMMISSION RECOMMENDATION:
APPROVE [VOTE – 8 FOR, 1 AGAINST])
(FIRST READING HELD SEPTEMBER 12, 2000
AT 2:00 P.M.)**

Chairman Mayes called for a Motion to open the Public Hearing MOTION was made by Commissioner Hufstetler, SECOND by Commissioner Fricks. VOTING:

YES NO

Commissioner Hufstetler

" Fricks
" Jennings
" Mahanay

Motion Carried

SUPPORT

Bill Howard, 3585 Workman Road, Knoxville, Tennessee, representative of **American Tower Corporation**, stated they are requesting a Special Use Permit and a Variance to construct a tower at 2548 Alabama Road. He stated that regarding the number of towers currently in Floyd County, they are here because the carriers are here, because the demand is here. He asked that they consider that their presence and interest here is the result of, and a testament to the growth and vitality of Floyd County. American Tower Corporation is the leading company involved in the construction, operation, ownership and management of wireless transmission facilities. Their business is co-location, they construct the facilities and rent space on them to the carriers, provide management services and all related services to a number of providers of personal communication services. This site is a direct request from Tritel Communications. He stated that the site is in a commercial district, is surrounded by commercial and industrial properties and many of the other alternatives they looked at were in residential areas. The coverage needs were not met by the co-location sites they looked at. There was discussion as to the possibility of the tower being located on a water tower property in the area.

Ken Cookson, Engineering Operations Manager for **Tritel Communications**, stated that at the time he prepared the map he had looked at hundreds of sites. He stated that they would lose coverage by moving to the water tank since it is further east and would provide considerable redundant coverage with the co-location they are on at Glenwood. It was mentioned that the Glenwood site is approximately ten miles from the requested location.

Bill Howard, stated that the co-location opportunities they had considered, provided insufficient coverage. Commissioner Fricks noted that the water tower area is closer to residential than the requested site. Mr. Howard stated that this site also satisfies the five goals set by the County in its Zoning Ordinance concerning wireless transmission facilities and he reviewed the goals. He stated that to accomplish these goals, they are asking for flexibility on the setback requirements. He also reviewed other development plans for the property by the property owner. If they lose the variance, if they are required to move the tower, both of the requests must be removed from consideration. There is no four-acre area within the district, which will meet their requirements and the goals set by the county. He stated that they feel that this is a fair exchange and they hope the Board will agree. Commissioner Jennings asked about the proposed lighting. Mr. Howard replied that they use dual-flash technology, which is a two-part system, and with respect to the strobe lights, they are oriented up from the horizon. Ground test show that the net output of the lights at the ground level is the equivalent of a 60-watt light bulb. Commissioner Jennings mentioned the requirement of a \$20,000 bond for removal should technology change and/or the company goes out of business. Mr. Howard replied they were not aware of this requirement, but would have no problem with providing a bond.

There being no others present to speak for or against the request, MOTION was made by Commissioner Hufstetler that the Public Hearing be closed. SECOND by Commissioner Fricks. VOTING:

YES

NO

Commissioner Hufstetler

" Fricks

" Jennings

" Mahanay

Motion Carried

Chairman Mayes called for a Motion. MOTION was made by Commissioner Mahanay that, having met all of the county ordinance requirements for a communication tower, for **approval** of the Special Use Permit. SECOND by Commissioner Fricks. Commissioner Jennings stated one of the criteria they have looked at is placing these on public property where there is already a structure. He stated he is not adverse to the location, but would like the company to run the computer simulation, take a look at the water tank area and this item be placed on the Agenda next week and if the water tower site is appropriate, fine, if it isn't then he would be amenable to this location and

variance. Commissioner Fricks stated that whether it is private or public, which is more suitable, they are around a driving range and businesses, and the water tank site would be closer to residences than the proposed site. Comments were made by Mr. Cookson regarding reviewing the water tank site. Mr. Howard noted that Tritel Communications already has an 80% co-location ratio within Floyd County and applications for new tower locations are a last resort. He stated that whatever the outcome of the review of the water tower location, Mr. Cookson has already indicated that it will be less desirable in terms of a radio frequency perspective. He also noted other factors in using the water tower location. Commissioner Jennings made an amendment to the MOTION that they delay the decision for a week and they ask for an analysis of the location at the City of Rome water tank on Huffacre Road in order to make a more informed decision. The amendment died due to lack of a Second. Chairman Mayes called for a vote on the original Motion.

VOTING:

YES

NO

Commissioner Hufstetler

" Fricks

" Jennings

" Mahanay

Motion Carried

**FILE #016-2000SUP, BURNETT FERRY ROAD,
REQUEST A SPECIAL USE PERMIT IN A C-C
(COMMUNITY COMMERCIAL) ZONING
DISTRICT TO BUILD A CONVENIENCE STORE
AND GAS STATION, TAX MAP #448, AREA #09,
PARCEL(S) #22, 23.**

(PLANNING COMMISSION RECOMMENDATION:

APPROVE [VOTE – 7 FOR, 1 AGAINST])

(FIRST READING HELD SEPTEMBER 12, 2000,

AT 2:00 P.M.)

Chairman Mayes called for a Motion to open the Public Hearing. MOTION was made by Commissioner Hufstetler, SECOND by Commissioner Fricks. VOTING:

YES

NO

Commissioner Hufstetler

" Fricks

" Jennings

" Mahanay

Motion Carried

The citizen present for the rezoning waived their right to speak. There being no one present to speak against the request, Chairman Mayes called for a Motion. MOTION to close the Public Hearing was made by Commissioner Hufstetler, SECOND by Commissioner Jennings. VOTING:

YES NO

Commissioner Hufstetler
" Fricks
" Jennings
" Mahanay

Motion Carried

MOTION for was made by Commissioner Hufstetler for **approval** of the request for a Special Use Permit to build a convenience store and gas station. SECOND by Commissioner Mahanay. VOTING:

YES NO

Commissioner Hufstetler
" Fricks
" Jennings
" Mahanay

Motion Carried

**FILE #012-2000SUP, 3420 KINGSTON
HIGHWAY, REQUEST A SPECIAL USE
PERMIT IN A S-R (SUBURBAN RESIDENTIAL)
ZONING DISTRICT TO BUILD A COMMUNICATION
TOWER, TAX MAP #54, AREA #0, PARCEL(S) #57.
(PLANNING COMMISSION RECOMMENDATION:
DENY [VOTE – UNANIMOUS])
(FIRST READING HELD AUGUST 8, 2000 AT 2:00 P.M.)**

Chairman Mayes called for a Motion to open the Public Hearing. MOTION was made by Commissioner Hufstetler, SECOND by Commissioner Fricks. VOTING:

YES NO

Commissioner Hufstetler
" Fricks

" Jennings
" Mahanay

Motion Carried

SUPPORT

Sean Caskie, Vice President of Business Development, Signal One, 5751 Uptain Road, Chattanooga, Tennessee, the applicant, stated they are requesting approval of their application for a Special Use Permit to build a cellular tower at 3420 Kingston Highway. Signal One is a telecommunications tower owner and operator. They build the structures in order to put their customers, licensed PCS and cellular carriers on them. Signal One aggressively markets these towers for co-location to all licensed carriers, E911 services, paging, two-way radio, etc. They make their market by putting as many people on their towers as they possibly can, which is a goal similar to the county, to reduce the total number of towers in a given area. Under the Telecom Act, all service providers must be allowed to provide coverage to their market area. Their customer is Tritel, operating under the license name Suncom in Floyd County. He stated that also present from Tritel were, Diana Marsh, Site Development Manager; Ken Cookson, RF Engineer; Misty Kelly of Baker, Donaldson, Beerman and Caldwell, legal counsel; and Virginia Harmon, Signal One's local legal counsel. He stated that Tritel had asked Signal One to locate and construct a tower on Kingston Highway to help launch their network. He noted that in order to make a network operate, radio signals must cover an entire area to and from the tower. He stated that during the design phase of the system, Tritel redesigned their entire network two times to accommodate as many towers that are currently existing as there is possible. Of the total of 13 sites in Floyd County at this time, they are co-locating on ten existing structures. He stated that there are no other structures in the area suitable for co-location. Signal One obtained this piece of property to construct a tower based on the RF need for a tower in the area. Without a site in the area, there will be a hole in coverage for their customer, Tritel, which violates Tritel's mandated license coverage by FCC. When Signal One designed the original site, changes were requested by the Planning Commission. They had considered other possible locations, but this site provided the coverage needed for their customer. He stated that the tower will not be lighted, and it meets the fall zone requirements of the ordinance, and meet all other requirements of the ordinance.

He stated the site is designed to hold multiple tenants, they will have room for six carriers on the site, with additional room for paging or smaller antennas such as wireless cable or internet. This tower site is on property currently used for commercial, it adjoins another piece of property which is also used for commercial, and at the Kingston Highway intersection, there are other commercial properties. They have lowered the tower height, so will not need lights and feel they have more than met the requirements of the ordinance. Some of the issues which will come up are devaluation of property, he provided a listing of comparable property values for other properties which are located near towers. They had looked at property in Saddle Mountain and Mount Alto and discovered in every case property values have risen, even in the presence of multiple

tower structures. The tower site is designed not to fail, in the event that the tower did fail due to a catastrophic disaster, the tower is designed to collapse in and own itself. They have also met the fall zone requirements, so if it did fall over, it would be on their property. The site does not cause interference with any other communications devices, televisions, microwaves, pacemakers, since there is no lighting on the tower, there is no health affects which could be associated with things like epilepsy, or will not cause noise to affect anyone's hearing. He stated that the other representatives with him could answer specific questions about the site and affect of the site with the Telecommunications Act and local zoning ordinance.

Commissioner Jennings asked if this is in a non-residential area. Mr. Caskie's reply was "no", this area has both residences and commercial uses around it. The current use of the property is commercial, the adjoining property to the East is commercial and all of the properties directly across the street to the north are commercial.

OPPOSE

Sharon Barker, 312 Acorn Road, Rome, adjacent property owner to the proposed site. She presented a copy of a petition of names of property owners who would be affected by the construction of the tower. She also presented a map of the proposed area. She stated that they have a group of property owners who oppose the request. Some of the reasons they oppose the approval is safety, a threat to people who live in the surrounding area, the devaluation of property, constant flashing lights will cause health problems for neighbors, interference of other communications such as televisions, microwaves, telephones, visible impact, disturbances and intrusion on quality of life for homeowners of the surrounding area. The applicant had stated there would not be lights at this time, but what about later on when the tower is constructed. The Special Use Permit may be granted to one individual, but it affects the day-to-day lives of people living close to the proposed site of the communications tower. She stated that the property owners and neighbors request that the Board votes "no" to this Special Use Permit, File #012-2000SUP now and forever.

Patricia Shelley, 175 Acorn Road, Rome, presented pictures of the proposed location of the tower in comparison to the location of her house and two other houses. She has lived at this location since 1974, when they built their house. They had remodeled the house in 1994 and had raised three children in the neighborhood. She has lived in the area since she was twelve years old and it is a beautiful countryside. She feels that this will demolish that, she could not walk out on her deck with out staring at a tower. She mentioned a house recently completed and the tower will be practically in their front door. She stated that she has epilepsy and she cannot be around flashing lights, so if a light is ever put on the tower, she will have to sell her house and move. She hates to see the neighborhood ruined. She noted that there are several mobile homes in the area, but their yards are landscaped.

Jack Brown, 50 Brewer Road, Rome, stated that he is representing 68 members of the Masonic Lodge which is on adjoining property. He was asked by the

members to voice their opposition to the location of the cell tower in their area. The zoning committee has already rejected this unanimously. He referred to the comments made on a previous rezoning request for a cell tower. He stated that it had been stated at least four times "locate it in an area to keep it away from a residential area, keep it off of the Alabama Road, max distance away, you can barely see the tower and visual affects". The very thing they are fighting for on one tower, they are trying to give to them in another tower. They will not be building it where it will have little visual affect, they are going to build it on top of them. He feels that this community is a nice community. It is the desire of the 68 members of the adjoining property that the Board would please find in their favor, they do not want a tower, they don't need a tower where everyone can see it.

Shane Baker, 91 Acorn Road, Rome, stated that their home is approximately 250 feet from the initial proposed building site. He asked that they do not let them build the tower. He stated that a "no" vote will help him keep his property value up and maintain the quality of life he is accustomed to in the community. He has lived in the area for most of his life and has put a lot of time and money in his home. To put the tower in their neighborhood will do an injustice to the community.

Frank Baker, 330 Acorn Road, Rome, stated that he has lived at this location all of his life. His family has owned property there since the mid 1940's. He stated that he is not a tower engineer or a scientist, but in the last three weeks it has been on the national and local news that the phone companies have joined together to prepare a scientific study to see what the cell phones are doing to people, such as cancer. He stated that he does not feel these companies know all the affects of it and asked that this be taken into consideration. He stated that he is a local taxpayer and resents the fact that the cell tower companies want to pollute their neighborhoods. It is time Floyd County looks at other property, such as on mountains.

Earl Rowland, 110 Acorn Road, stated that he has lived there for his entire life. His family has owned property there for years. He is opposed to the tower because of the visual affect on the community. There are other locations where it can be located. He stated that his son is planning to build a new house, but the tower will be about 250 to 300 feet from the tower. He stated that he would appreciate the permit being denied.

Tim Rowland, 129 Acorn Road, stated that it seems to him that the areas where they want to co-locate seems to shrink. He stated that his BellSouth Mobility phone works on Kingston Highway all the way to Cartersville and he does not see a single cell tower. And they still want to put another cell tower in the area, with the reason being to cover the area. He does not feel that that is true. They should put their company on another cell tower. The problem is that they can build a cell tower much cheaper than leasing on another area. They may be around for 20, 30, 40 or 50 years, but then will have to get rid of the towers. He stated that he opposes it, it is right behind his house. His family will have more visual affects of it than anyone.

Glen White, 29 Acorn Road, is the owner of property adjacent to the proposed site. He stated that if the tower is built, his property will reduce to zero in value. If the property value drops, then the revenues for the county drop. If he goes out on his porch or deck he will see the tower. He stated the Commissioners would not want it and neither does he. He recommended them voting for the community instead of the cell tower.

REBUTTAL

Sean Caskie, stated that the first issue addressed was the safety of the tower. The tower was specifically designed with safety in mind, it was moved to the center of the property so that if it fell it would not affect anyone else's property. The tower is designed to allow the use of cellular telephones in the event of roadside emergencies or in the event local phone service is disrupted through storms, power outages, etc. Cell phones are now the leading use for 911 calls. It is true that one phone service may have coverage in that area, but that does not mean that his company has service in that area and under law, they must be allowed to provide service to that area. This tower does specifically that. There is no devaluation in property based on the location of a cellular tower. In the event that a hog farm, a junkyard, a mobile home trailer park or some other type of industry is located there, there is the possibility of devaluation of property. There are no lights currently planned for this tower. It was designed to be below the minimum FAA requirements for lights. If the FAA does require lights in the future due to a change in an airport pattern, they will have to put lights on the tower, it would be beyond their control. The frequency at which the lights will blink will not trigger epileptic seizures. This tower or any of the licensed carriers equipment will not interfere with any radio, television or other electronic waves that will be around the site. This tower will cause a visual impact, but they meet the requirements of the local zoning ordinance. They have done everything they can to make it the least visually intrusive site they can. He stated that he lives in Rockmart and has a 650 foot am tower less than 800 feet from his house and it does not affect his quality of life. This site meets the requirements, there were no other towers in the area to co-locate on and there were no other structures in the area suitable for co-location. If the site is denied, we will not have coverage in this area and that violates his customers rights through the Telecom Act and the Constitution.

Commissioner Jennings asked if he was saying that federal law requires that he put this tower at this location. Mr. Caskie replied "no", he is saying that federal law requires coverage in this area and by putting this tower in this location, it does meet the coverage objective required by law. It does not require that it is put at this location, but it does meet the requirements of the local zoning law and that is why they chose that spot. Commissioner Jennings asked if this is a non-residential area. Mr. Caskie replied the property is non-residential use, as is surrounding property except to the rear of the property.

Virginia Harmon, a partner at Shaw, Maddox, Graham, Monk & Boling, stated she represents Signal One. She stated that she had listened to the objections voiced and has no doubt that the people are sincere in the beliefs that they set forward. She stated that she has no doubt that the law as it applies to this situation is unambiguous as is the duty of the Commission. Not only under FCC, federal law but also state law, where an

applicant has met the goals as best they can, and this applicant has redesigned their system and site in order to meet the goals and requirements of this ordinance. She feels that they have tried every way they can to meet the objections of the community. In Floyd County there is mixed use of property and it is very difficult in an area that needs cell phone coverage, to locate a cell tower where there is no residential use near the property. She also referred to the Grattis Case and the State Supreme court decision. She feels that this petition and petitioner represents a good faith, absolute effort to meet the goals and requirements of this ordinance. Commissioner Jennings asked if she was also saying that this location also absolutely, constitutionally has to be the location that this company locates this cell tower on. She stated that it is unconstitutional to require this carrier to say that this is the only site. What they have to show is that this site does meet your goals and requirements. Commissioner Jennings asked if this is a non-residential area. Ms. Harmon stated that speaking about the particular property as it is located, it is a non-residential area of our community. Commissioner Jennings asked if it is a non-residential area of our community. Ms. Harmon replied that the area itself, if defined broadly, contains residential properties. She asked if it was necessary to locate this cell tower in a completely non-residential area. She stated that she believes if that is imposed by this Commission, it would be unconstitutional.

Chairman Mayes called for a Motion. MOTION to close the Public Hearing was made by Commissioner Hufstetler, SECOND by Commissioner Mahanay. VOTING:

YES

NO

Commissioner Hufstetler

" Fricks

" Jennings

" Mahanay

Motion Carried

Commissioner Hufstetler asked County Attorney Wade Hoyt what he saw the issues being in this matter. County Attorney Hoyt stated that the information presented by the cell tower company indicates that there is no devaluation of property; we have no evidence to refute that. They have indicated that this is the best area for them to put the tower; we have no evidence to refute that. Commissioner Jennings asked if it is their job to refute that evidence here tonight. County Attorney Hoyt replied that it is, in his opinion. If a decision is made tonight, you need to be very specific about your reasons for denial and you need to state on the record what the evidence is for that denial. He stated has read the Grattis Case. The facts and statements they have made, in his opinion, outweigh the aesthetic problems with this tower. In his opinion, it would be an unconstitutional denial if the request is denied. Commissioner Fricks asked what if we tried to back-up the information provided to us with additional information we gather ourselves. County Attorney Hoyt replied that could be done if they want to table the request, and then attempt to obtain information that would refute what has been presented to us. If you could get information, for instance, that property values in Floyd County are devalued by the closeness of a cell tower. If you could get information that there is another better location, although that may

not hold up under the Grattis Case. He noted that many counties have their own cell tower experts who make these decisions in advance, but we are not prepared to do that.

Commissioner Jennings stated that in light of the opposition in the community, would they want to go back to the general area and find a more rural location, which is more palatable to this community. Chairman Mayes asked if that is possible. Mr. Caskie replied that at this time it is not possible and would cause undue hardship on them if it is tabled. It would cause undue hardship on them to go back and spend the additional sum, and effort and energy. They do meet the requirements of the ordinance and they did evaluate many other properties in the area, including a water tank closer to the county line and an existing tower at the by-pass. He asked that a decision be made at this time.

Commissioner Jennings stated that the information provided showing that the cell tower did not diminish the property value, is not an accurate comparison to this area.

Chairman Mayes asked if there are alternatives, other than voting. County Attorney Hoyt stated that the only other alternative is Commissioner Fricks suggestion of tabling the issue until you can obtain additional information. He feels the only issue would be whether it diminishes property values. They would have to look at all the property that have cell towers close to them and determine whether or not they diminish property values. He stated that this has been a relatively litigated area and more times than not, it has been determined that property values are not diminished by the closeness of cell towers. He noted that the Telecommunications Act is a tough federal law. Commissioner Jennings stated that from his perspective, if this is denied and it ends up in court, he cannot think of a better reason to go to court than to protect our citizens in this community who are legitimately concerned about this particular issue. He mentioned an article from the ACCG, which did indicate that negative aesthetics on the surrounding property was a legitimate reason for denying a request and he is prepared to make that Motion when the time comes.

Commissioner Fricks stated that he would like to verify the information which has been provided to them, and review it to see if there is a legitimate reason or purpose, and to look at the affects on the property values in the area. He stated that he feels this will benefit them not only in this case, but future cases as well. He stated that he is not ready to deny or approve the request.

MOTION to **table** the request was made by Commissioner Fricks, SECOND by Commissioner Mahanay. VOTING:

YES

NO

Commissioner Hufstetler

" Fricks

" Jennings

" Mahanay

Motion Carried

Chairman Mayes noted that the next meeting will be October 3, 2000 at 12:00 p.m. There is the possibility that the information will not be available at that time, if so, the request could be tabled again at that meeting. County Attorney Hoyt stated that he would contact a local appraiser on Wednesday. The residents were asked to cooperate with the appraiser if he requested to come on their property. Commissioner Hufstetler suggested that they call Sue Broome's office on Monday afternoon and they should know at that time if the necessary information has been obtained.

Virginia Harmon asked if this is being tabled for an indefinite time. County Attorney Hoyt replied that it goes directly to the next meeting and they have to take action, unless they table it again, because of not being able to obtain the needed information by the next meeting. He asked for direction from the Board as to the information they want from the appraiser. Chairman Mayes replied that they are wanting to know if the property values in this particular area will be devalued by the tower. *(Comments made by a resident were not audible.)*

YES NO

Commissioner Hufstetler

" Fricks
" Jennings
" Mahanay

Motion Carried

VARIANCES:

**FILE #010-00V, DONALD H. HUGHES,
265 GAINES ROAD, NE, PROPOSED
USE FOR DAY CARE CENTER.**

Chairman Mayes called for a Motion to open the Public Hearing. MOTION was made by Commissioner Hufstetler, SECOND by Commissioner Jennings. VOTING:

YES NO

Commissioner Hufstetler

" Fricks
" Jennings
" Mahanay

Motion Carried

SUPPORT

Don Hughes, 265 Gaines Road, NE, owner of the property, stated that they are requesting the rezoning for a prospective buyer for the property so it can be used for a

day care center. He stated that they had a personal care home for the elderly for approximately seven years.

Chairman Mayes called for a Motion to close the Public Hearing. MOTION was made by Commissioner Hufstetler, SECOND by Commissioner Fricks. VOTING:

YES NO

Commissioner Hufstetler

" Fricks
" Jennings
" Mahanay

Motion Carried

Chairman Mayes called for a Motion. MOTION for **approval** of the Variance for the day care center. SECOND by Commissioner Fricks. VOTING:

YES NO

Commissioner Hufstetler

" Fricks
" Jennings
" Mahanay

Motion Carried

**FILE #011-00V, HORSELEG PLANTATION
RESIDENCES, BELLE MEADE DRIVE, SW,
VIOLATION OF MINIMUM SETBACK.**

Chairman Mayes called for a Motion to open the Public Hearing. MOTION was made by Commissioner Fricks, SECOND by Commissioner Hufstetler. VOTING:

YES NO

Commissioner Hufstetler

" Fricks
" Jennings
" Mahanay

Motion Carried

SUPPORT

Charlie Williams, stated that he represents Horseleg Plantation Residences and they have requested a Variance on the rear setback of the property. There is only one other property owner, other than themselves, and he was not represented at the meeting. He stated that he has talked with the neighbor and he assumes he has no opposition since he did not attend.

MOTION to close the Public Hearing was made by Commissioner Fricks, SECOND by Commissioner Jennings. VOTING:

YES NO

Commissioner Hufstetler
" Fricks
" Jennings
" Mahanay

Motion Carried

MOTION for **approval** of the Variance Request for the Horseleg Plantation Residences was made by Commissioner Hufstetler. SECOND by Commissioner Mahanay. Assistant County Manager Tom Tully requested that it be specified Lots 12 through 16. Commissioner Hufstetler amended his MOTION to specify **Lots 12 through 16**. SECOND by Commissioner Jennings. VOTING:

YES NO

Commissioner Hufstetler
" Fricks
" Jennings
" Mahanay

Motion Carried

**FILE #012-00V, LARRY MARTIN/
AMERICAN TOWER COMPANY,
2548 ALABAMA HIGHWAY,
VIOLATION OF COMMUNICATION
TOWER ORDINANCE AND MINIMUM
SETBACK.**

Chairman Mayes called for a Motion to open the Public Hearing. MOTION was made by Commissioner Hufstetler, SECOND by Commissioner Jennings. VOTING:

YES NO

Commissioner Hufstetler
" Fricks
" Jennings
" Mahanay

Motion Carried

SUPPORT

Bill Howard, American Tower Corporation, stated that information on this property had been presented previously with a Special Use Permit request and he would not take up time by presenting it again, but would answer any questions.

MOTION to close the Public Hearing was made by Commissioner Hufstetler, SECOND by Commissioner Fricks. VOTING:

YES NO

Commissioner Hufstetler
" Fricks
" Jennings
" Mahanay

Motion Carried

Chairman Mayes called for a Motion. MOTION for **approval** of the Variance Request for the communication tower was made by Commissioner Hufstetler. SECOND by Commissioner Fricks. VOTING:

YES NO

Commissioner Hufstetler
" Fricks
" Jennings
" Mahanay

Motion Carried

MOTION was made by Commissioner Hufstetler for a three-minute break. SECOND by Commissioner Jennings. VOTING:

YES NO

Commissioner Hufstetler
" Fricks

" Jennings
" Mahanay

Motion Carried

VOTE ONLY

**FILE #010-2000SUP, 3128 HIGHWAY 411,
REQUEST A SPECIAL USE PERMIT IN A
C-C (COMMUNITY COMMERCIAL) ZONING
DISTRICT TO BUILD A COMMUNICATION
TOWER, TAX MAP #572, AREA #0, PARCEL(S) #017.
(PLANNING COMMISSION RECOMMENDATION:
DENY [VOTE – 5 AGAINST, 3 FOR])
(FIRST READING HELD JULY 11, 2000 AT 2:00 P.M.)
(SECOND READING/PUBLIC HEARING HELD JULY 25, 2000
AT 6:00 P.M. [NO ACTION])
(SECOND READING/PUBLIC HEARING HELD AUGUST 8,
2000 AT 2:00 P.M. [NO ACTION])
(SECOND READING/PUBLIC HEARING HELD AUGUST 22,
2000 AT 6:00 P.M. [NO ACTION])
(SECOND READING/PUBLIC HEARING HELD SEPTEMBER 12,
2000 AT 2:00 P.M. [NO ACTION])**

No action was taken.

**FILE #019-99SUP, MALLARD POINT ROAD,
REQUEST A SPECIAL USE PERMIT, TO
CONSTRUCT A COMMUNICATION TOWER
IN A S-R (SUBURBAN RESIDENTIAL) ZONING
DISTRICT, TAX MAP #570, PARCEL 34.
(PLANNING COMMISSION RECOMMENDATION:
DENY [VOTE – 4 AGAINST, 4 FOR])
(FIRST READING HELD FEBRUARY 22, 2000 AT 6:00 P.M.)
(SECOND READING/PUBLIC HEARING HELD MARCH 14, 2000
AT 2:00 P.M. [WILL TAKE UP AT NEXT MEETING])
(SECOND READING/PUBLIC HEARING HELD MARCH 28, 2000
AT 6:00 P.M. [NO ACTION])
(SECOND READING/PUBLIC HEARING HELD APRIL 11, 2000
AT 2:00 P.M. [NO ACTION])
(SECOND READING/PUBLIC HEARING HELD APRIL 25, 2000
AT 6:00 P.M. [NO ACTION])
(SECOND READING/PUBLIC HEARING HELD MAY 9, 2000
AT 2:00 P.M. [NO ACTION])
(SECOND READING/PUBLIC HEARING HELD MAY 23, 2000
AT 6:00 P.M. [NO ACTION])**

**(SECOND READING/PUBLIC HEARING HELD JUNE 13, 2000
AT 2:00 P.M. [NO ACTION])**
**(SECOND READING/PUBLIC HEARING HELD JUNE 27, 2000
AT 6:00 P.M. [NO ACTION])**
**(SECOND READING/PUBLIC HEARING HELD JULY 11, 2000
AT 2:00 P.M. [NO ACTION])**
**(SECOND READING/PUBLIC HEARING HELD JULY 25, 2000
AT 6:00 P.M. [NO ACTION])**
**(SECOND READING/PUBLIC HEARING HELD AUGUST 8, 2000
AT 2:00 P.M. [NO ACTION])**
**(SECOND READING/PUBLIC HEARING HELD AUGUST 22, 2000
AT 6:00 P.M. [NO ACTION])**
**(SECOND READING/PUBLIC HEARING HELD SEPTEMBER 12,
2000 AT 2:00 P.M. [NO ACTION])**

No action was taken.

PUBLIC PARTICIPATION

John Adams, a senior at Armuchee High School and also President of S.N.A.P. (Students for a new Armuchee Park), stated they are there to assure that our children have the same opportunity as every other child in Rome and Floyd County. It is time for Armuchee to have a new recreational facility as other areas of Floyd County.

Joe Adams, 412 Armuchee Trail, Armuchee, thanked the Board for the opportunity to speak and for building up enough surplus funds for this petition to be possible. He also thanked the more than 800 people in Armuchee who signed the petition. The petition was presented to the Clerk. He stated that he had retired from the military a year ago and had moved back to Rome after 20 years. One of the first things he noticed in the Armuchee area was the state of the park. Recently he was with one of his sons at Pepperell at 11 o'clock on a Wednesday night, a school night, where they had two Armuchee teams playing against each other. It was 12:15 a.m. before the kids got home. In a survey made by the Recreation Authority last spring, Armuchee residents completed approximately 700 surveys, compared to the next highest of 125, which was in the City of Rome. The Recreation Authority has placed a new Armuchee Park as their number one priority for a new park in Rome and Floyd County. Unfortunately it will not be built unless the Board funds it. He congratulated the Board on the \$14 million surplus. He noted that the City of Rome has approximately \$7 million surplus. He feels that with some of the money, they need to renovate the park at Armuchee or build a new park. He presented a map showing the parks in Rome and Floyd County. He stated that Armuchee is the only school in the county with no soccer team, soccer field or soccer program. Armuchee boys and girls are forced to move away from Armuchee to play. He reviewed the park attributes which are listed on the petition. He presented the following courses of action: 1) build a new park on site at one of these locations, existing Armuchee Park, across from Armuchee High School, near Armuchee Elementary School, near the new Armuchee Middle School or, behind the New Armuchee Baptist Church (the majority

favor this location). 2) Renovate the existing Armuchee Park and enlarge the facility to include the new ball fields, new gym and swimming pool. 3) Purchase the old Armuchee High School, which is currently for sale, and renovate the gym which is already there. The good thing about the location behind the New Armuchee Baptist Church is that it will be on the Armuchee Creek and could perhaps get Greenspace funds as an initiative to start at this location. He stated that he hoped the Commissioners had an opportunity to review the petition and see some of the community leaders in the Armuchee area who have signed the petition. He feels that now that we have the money, now is the time to spend it, we don't need a S.P.L.O.S.T., what we need is to spend some of the surplus money which has been wisely accumulated and spend it on the children and youth of northern Floyd County.

Commissioner Fricks, stated that he serves on the Recreation Board and they did complete the study and as a recreation, that was the number one top priority on their list of needs in Floyd County. Currently they are looking at property there, but have made no deals, they are trying to accumulate property which will be sufficient for the area. He feels that it is the intention of the Board to proceed with the purchase of the property. Part of the study which is to be completed is to address other avenues of funding the projects, other than S.P.L.O.S.T. These will be in the final draft of their proposal. He stated that regarding the fund reserve, they hesitate to go into the fund reserve to utilize projects such as this since it means about \$900,000 a year in revenue which they do not have to ask the taxpayers for. It creates interest, but also saves us interest as well.

Commissioner Hufstetler stated that when they are looking for property, they are not very public about it since it is not to the advantage of the taxpayers. He stated there are situations being look at regarding the funding, and they try to be creative. They have started construction on a new Floyd County Prison, which will change us from 220 to 450 working prisoners from the state. This has been done without a Millage increase, without asking for more taxes and without a S.P.L.O.S.T. On recreation projects, it is a number one priority for this Commission as well.

Commissioner Jennings stated that there is the potential to obtain Greenspace funds for the community, but it can be used only for passive recreation, such as walking trails and greenspace along the rivers and not active recreation areas. He stated they are trying to be as creative as possible and get the project started.

Mr. Camp stated that regarding the area behind the New Armuchee Baptist Church, the church would like to be able to have enough room to grow. They have talked for years about closing the road which runs by the Post Office, to the old bridge and making a walking trail. The active ball fields could be put behind the new fire station. He is sure that as long as they get a park, everyone will be happy wherever it is. He stated the park needs to be built within the next two to three years. He hopes it will seriously be considered and he hopes that this will be the Board that builds the new Armuchee Park.

CHAIRMAN'S REPORT

APPOINTMENTS.

County Clerk Sue Broome stated that under the Chairman's Report there is one appointment, Donald Shumate, Jr., to the Northwest Georgia Region I E.M.S. Services Council for a two-year term , July 1, 2000 through June 30, 2002, and she asked the appointment be approved conditioned on the Tax Commissioner signing off on the profile. Chairman Mayes called for a Motion. MOTION for approval of the appointment of Donald Shumate with the condition that the Tax Commissioner sign off on the profile was made by Commissioner Hufstetler. SECOND by Commissioner Fricks. VOTING:

YES

NO

Commissioner Hufstetler

" Fricks

" Jennings

" Mahanay

Motion Carried

APPOINT A VOTING DELEGATE AT THE ACCG/GMA JOINT FALL POLICY CONFERENCE, GENERAL BUSINESS SESSION (RULES & OPERATING PROCEDURES OF GENERAL BUSINESS SESSION IN CLERK'S OFFICE).

MOTION was made by Commissioner Jennings to nominate Garry Fricks, Post 2, as voting Delegate to the ACCG/GMA Joint Fall Policy Conference. SECOND by Commissioner Mahanay. VOTING:

YES

NO

Commissioner Hufstetler

" Jennings

" Mahanay

Motion Carried

PUBLIC SAFETY COMMITTEE.

Commissioner Mahanay, Committee Chairman read the following press release regarding the County's Public Safety compensation. He emphasized that this is not a study, it is a business in progress.

“As Chairman of the Floyd County Public Safety Committee, the long term solution to compensation among all public safety personnel is a common structure for pay scale. The County Manager, Kevin Poe and I are actively meeting with respective department personnel and representatives from the City of Rome to develop and define this concept. The intent is not a band-aid or quick fix approach to solving current inequities of pay among different departments, but one that is the fairest and most enduring arrangement. Our goal is to have in place a recommendation to the County Commission to be in time to be considered in the 2001 budget.”

PUBLIC WORKS COMMITTEE.

Commissioner Fricks, Committee Chairman, mentioned that the top priority is with the public safety departments, but they are also looking at evaluating the rest of the Floyd County employees as well. It will probably be January before they will be prepared to take any action or make a recommendation, but hopefully will be able to do this by budget time.

WATER COMMITTEE

Commissioner Jennings, Committee Chairman, stated that he and County Manager Kevin Poe had the opportunity to meet with Water Department employees recently. These employees are also concerned about pay issues. He noted that there have been insurance increases this year and the cost of living has increased substantially and it merits us to do what we can to help our employees to make a good living. They work hard and we appreciate them and are definitely working to see what we can do to help all Floyd County employees.

CLERK’S REPORT

CONSENT AGENDA.

County Clerk Sue Broome stated there are five items on the Clerk’s Report, Item Number 5 requires a 4/5 vote, if the 4/5 vote is approved, then the other items can be approved, and they are presented for your consideration. Chairman Mayes called for a Motion on the 4/5 vote to place the item on the Agenda. MOTION was made by Commissioner Hufstetler to place the Malt Beverage License Application on the Agenda. SECOND by Commissioner Jennings. VOTING:

YES

NO

Commissioner Hufstetler

" Fricks

" Jennings

" Mahanay

Motion Carried

MOTION was made by Commissioner Hufstetler that the Consent Agenda be approved, SECOND by Commissioner Jennings. VOTING:

YES

NO

Commissioner Hufstetler

" Fricks

" Jennings

" Mahanay

Motion Carried

1. Correction to the Amendment to the Floyd County Code adopted July 11, 2000, regarding False Alarms, amend Chapter 2-10 Fire Protection and Prevention instead of 2-11 Health and Sanitation.

Tax Refunds:

- a. Cartage 26 Brown, 5801 N. Calhoun Highway, NE, \$17.53
 - b. S. J. Huckaby, P.O. Box 41, Cave Spring, \$10.44
3. Authorize the Chairman to sign a Letter of Agency with Qwest for long distance service for a one-year period.
 4. Authorize AIG Insurance Company to negotiate and/or settle claim against Floyd County.
 5. Malt Beverage license application:
 - a. Amy L. Allen, One Second Trip, 2991 Cedartown Highway

MANAGER'S REPORT

AUTHORIZE EXECUTION OF DOCUMENTS FOR 2001 LARP, LAR30-359-1 (115) FOR PLANT MIX RESURFACING ON VARIOUS COUNTY ROADS (10.23 MILES).

County Manager Kevin Poe presented documents relating to the 2001 LARP program and he recommended authorizing the Chairman and Clerk to execute the documents. Chairman Mayes called for a Motion. Commissioner Jennings made a MOTION to authorize execution of the documents for the 2001 LARP program, which includes LAR30-359-1 (115) for plant mix resurfacing on various county roads (10.23 miles). SECOND by Commissioner Mahanay. VOTING:

YES

NO

Commissioner Hufstetler

" Fricks

" Jennings

" Mahanay

Motion Carried

**AUTHORIZE THE PURCHASE OF
PROPERTY ADJACENT TO THE
ROME/FLOYD COUNTY RECYCLING
CENTER.**

County Manager Kevin Poe recommended authorization of an amendment to the Recycling Center Fund Budget to allow for a payment of \$20,000 to the Rome/Floyd County Development Authority for the acquisition of the building next to the current Recycling Center. This is a recommendation that comes from the Solid Waste Commissioner. MOTION was made by Commissioner Mahanay to authorize purchase of the property adjacent to the Rome/Floyd County Recycling Center for a price of \$20,000. SECOND by Commissioner Hufstetler. Commissioner Hufstetler noted that this is simply to pay off the remaining debt on the property. VOTING:

YES

NO

Commissioner Hufstetler

" Fricks

" Jennings

" Mahanay

Motion Carried

GUARDIAN DENTAL PLAN RATE INCREASE.

County Manager Kevin Poe presented options related to renewing the current dental plan with Guardian. He recommended delaying the renewal until January 1, 2001, which would remain effective until January 31, 2001, but authorize the Manager to submit a letter to Guardian noting that we would like to accept the option to delay the renewal and pay the rates as presented, effective January 1, 2001. MOTION was made by Commissioner Hufstetler to approve the Guardian Dental rate increase with the plan that would change the rates effective January 1, 2001. SECOND by Commissioner Fricks. VOTING:

YES

NO

Commissioner Hufstetler
" Fricks
" Jennings
" Mahanay

Motion Carried

**PROPOSAL FROM SOUTHERN A & E
TO PROVIDE CONSTRUCTION DOCUMENTS
ON ROAD IMPROVEMENTS ASSOCIATED
WITH VARIOUS SCHOOLS.**

County Manager Kevin Poe presented a proposal from Southern Architects and Engineers to provide engineering work related to road improvements needed relating to the construction of Armuchee Middle School at Highway 140 and Floyd Springs Road and the construction of the Coosa Middle School behind Coosa High School at Eagle Drive and Highway 20. He stated that the reason for using Southern Architects and Engineers is because they are the engineers for the S.P.L.O.S.T. projects through the Board of Education. The proposal submitted is for a total of \$38,725 and covers the five tasks they outlined. He recommended acceptance of the proposal. MOTION was made by Commissioner Fricks to approve the construction documents. SECOND by Commissioner Hufstetler. VOTING:

YES

NO

Commissioner Hufstetler
" Fricks
" Jennings
" Mahanay

Motion Carried

**AUTHORIZE WESTON TO PROCEED
WITH THE EVALUATION OF RECYCLING
PROGRAMS AND FACILITIES AT THE
ROME/FLOYD COUNTY RECYCLE CENTER.
(Requires 4/5 Vote)**

County Manager Kevin Poe recommended that Roy F. Weston, Inc. be hired to perform a study which will evaluate our existing recycling program and facilities. This also comes as a recommendation through the Solid Waste Commission after going through the Request for Proposal and a committee that reviewed the proposals. The contract amount to perform the study would be \$29,776, which is to be funded through a state grant which has been received. (Motion on page)

**RECOMMEND HIRING NANCY LAM
AS PURCHASING DIRECTOR AND ENTER
INTO A CONTRACT. (Requires 4/5 vote)**

County Manager Kevin Poe recommended that Nancy Lam be appointed Purchasing Director and that we enter into a contract with her that would make that position an at will position and the starting salary for the position be \$47,000. (Motion on page)

MOTION was made by Commissioner Jennings that these two items be placed on the Agenda. SECOND by Commissioner Hufstetler. VOTING:

YES NO

Commissioner Hufstetler
" Fricks
" Jennings
" Mahanay

Motion Carried

MOTION was made by Commissioner Hufstetler for approval for **Weston** to proceed with the evaluation of our recycling program and award them the bid. SECOND by Commissioner Mahanay. VOTING:

YES NO

Commissioner Hufstetler
" Fricks
" Jennings
" Mahanay

Motion Carried

MOTION was made by Commissioner Jennings to appoint **Nancy Lam** as our **Purchasing Director** in an at will position at a salary of \$47,000. SECOND by Commissioner Hufstetler. VOTING:

YES NO

Commissioner Hufstetler
" Fricks
" Jennings
" Mahanay

Motion Carried

ATTORNEY'S REPORT

County Attorney Wade Hoyt stated that he will give an update on the prison property at the next meeting.

ADJOURNMENT:

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

YES

NO

Commissioner Hufstetler

" Fricks

" Jennings

" Mahanay

Motion Carried

FLOYD COUNTY BOARD OF COMMISSIONERS
JOHN MAYES, CHAIRMAN