

August 14, 2001

REGULAR MEETING
FLOYD COUNTY BOARD OF COMMISSIONERS
August 14, 2001 **2:00 P.M.**

PRESENT Chairman John Mayes, Commissioners Chuck Hufstetler, Garry Fricks, Jerry Jennings, and Tim Mahanay.

OTHERS

PRESENT: County Attorney Wade Hoyt, County Clerk Michele Fountain, and Assistant County Manager Tom Tully.

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

INVOCATION: County Attorney Wade Hoyt led the Invocation.

PLEDGE OF

AGGEGIANCE:The Pledge of Allegiance was led by Commissioner Hufstetler.

ADOPTION OF

MINUTES: Commissioner Hufstetler made a MOTION to adopt the minutes of the Regular Meeting of July 24, 2001 as presented. SECOND by Commissioner Mahanay. VOTING:

YES

NO

Commissioner Hufstetler

" Fricks

" Jennings

" Mahanay

Chairman Mayes

Motion Carried

APPOINT TOM TULLY ACTING

**COUNTY MANAGER (AUGUST 14TH
THROUGH NOVEMBER 14TH).**

MOTION was made by Commissioner Hufstetler to appoint Tom Tully the Acting County Manager from August 14th through November 14th. SECOND by Commissioner Jennings.

VOTING:

YES

NO

Commissioner Hufstetler

" Fricks

" Jennings

" Mahanay

Chairman Mayes

Motion Carried

Chairman Mayes noted that County Manager Kevin Poe is on a Mission Trip to Paraguay and will be gone for approximately three months.

PROCLAMATIONS:

ALUMNI OF WEST ROME HIGH SCHOOL CLASS OF 1981.

**EAGLE SCOUTS FROM BOY SCOUT TROUP 4:
MATTHEW CHARLES AGAN, JORDAN ASKEW,
MICHAEL LEE DAVIS, DANIEL JOSEPH
ERRICKSON, WILL O'HARA AND JONATHAN
M. LESTER.**

FIRST READING.

**FILE #06-2001SUP, 728 BOOGER
HOLLOW ROAD, TAX MAP #598,
AREA #00, PARCEL #003A, REQUEST
SPECIAL USE PERMIT FOR
COMMUNICATIONS TOWER IN
A-R (AGRICULTURAL RESIDENTIAL
ZONE.
(PLANNING COMMISSION RECOMMENDATION: DENY)
(SECOND READING/PUBLIC HEARING TO BE
HELD AUGUST 28, 2001 AT 6:00 P.M.)**

Chairman Mayes called for a Motion. MOTION was made by Commissioner Jennings to place File #06-2001SUP, the communication tower on Booger Hollow Road on First Reading. SECOND by Commissioner Hufstetler. VOTING:

YES

NO

Commissioner Hufstetler
" Fricks
" Jennings
" Mahanay
Chairman Mayes

Motion Carried

SECOND READING/PUBLIC HEARING.

**REVISED UNIFIED LAND
DEVELOPMENT CODE.
(FIRST READING HELD JULY 10, 2001
AT 2:00 P.M.)
(SECOND READING/PUBLIC HEARING
HELD JULY 24, 2001 AT 6:00 P.M.)**

Acting County Manager Tom Tully presented the new Unified Land Development Code. This is an item which has been worked on since 1996. He noted that this code was adopted by the City of Rome last month and that the code will need to be revised from time to time. The

maps were present and had been available for approximately 8 weeks. MOTION was made by Commissioner Hufstetler to open the Public Hearing on the Unified Land Development Code. SECOND by Commissioner Jennings. VOTING:

YES

NO

Commissioner Hufstetler

" Fricks

" Jennings

" Mahanay

Chairman Mayes

Motion Carried

OPPOSITION

Addie Perry, 865 Old Dalton Road, lives one and one-half miles north of the Mount Berry Mall. She stated that she wanted to speak in opposition to the coding of some of the property adjacent to hers, as duplex residential. She feels that it is not appropriate to mix duplexes in with residences and there is already in the area the Swan Lake community, in addition to a subdivision, which is to be built across the road. She is surrounded by pasture land, mobile homes, duplexes, mini-warehouses, and residences which she considers a hodge-podge of everything you can think of almost. She stated that not only does she not want to live next door to duplexes, but it would increase the number of people that can be put in one small piece of land and would increase the traffic. She is concerned about the fact that she went to the Planning Commission and talked with one man who told her that he and another member of the Planning Commission did not approve the use of this code at all. She then called Tom Tully and he stated that it was coded like this so that, if a developer came along and wanted to build on it, it would be already set up for them. One of her objections is that you can't have livestock and it appears that maybe we are trying to change a rural area into an urban area, which is not good. She stated that she feels that if they go along with this code they are allowing zoning, which could be protective, to be entirely too restrictive.

Commissioner Hufstetler asked for clarification on the livestock issue. Acting County Manager Tully stated that in agricultural residential, livestock production is allowed by right. In suburban residential, livestock, as long as it is not being used in a commercial purpose, is allowed as an accessory use to your property. However, harvesting and growing for commercial purposes is not permitted in the S-R district. Agricultural production in terms of crops is permitted by right, but there is the differentiation between crops and livestock. As pointed out earlier, if someone has a cow or a couple of cows they have raised and are using, and not in a commercial sense and does not create a problem for the adjoining property owners, that is allowed by right in the Suburban Residential area.

Ms. Perry noted that it is not allowed in a duplex. Ms. Perry stated that almost two years ago someone built duplexes on Beard Drive and the owner had given false information in order to clarify his position in building the duplexes. Currently all of the north side from there to the Old Dalton Road and including the corner lot, on which the house faces the Old Dalton Road has been coded duplex and one more house. It comes down Beard Drive and goes up next to her property. If the Planning Commission is not for this, then who is. Have the developers already been designated or who coded it Duplex Residential? She stated that when she talked to Mr. Tully on the phone, he told her that unless she belonged to a strong neighborhood organization, it would be hard to make any changes. She stated that if you don't live in a subdivision, you do not belong to a strong neighborhood organization. Acting County Manager Tully replied that the

context in which he said a strong neighborhood association is needed for protection is in terms of restrictions and covenants that neighborhoods may have, he certainly didn't mean to imply that only strong homeowners' associations have any power in this ULDC. That is not only a misstatement, but also not true. He stated that there have been individual homeowners and property owners come on a number of occasions and the code as presented to the Commissioners was approved by the Planning Commission unanimously. It is a result of at least two years of work of a committee comprised of citizens representing a broad section of developers, agricultural interest, and homeowners for the latest revision. It is a compromise from all of the areas, no one single group got what they wanted out of the code. It was felt by the Committee and the Planning Commission that this is a good compromise for both Rome and Floyd County. Because this is a unified code, and the first effort where the city and county will have the same land development code. It is an asset for the community and something the community can live with as a whole as they move forward.

Commissioner Hufstetler stated that he was concerned that the Planning Commission had said this is what they want, but Ms. Perry is saying they are not in favor of it. Ms. Perry replied that she was not sure the Planning Commission had said they agree with everything in it, but she would like to have an explanation as to why the area was changed from Suburban Residential to Duplex. It appears to her that someone is getting a little favoritism.

Commissioner Fricks asked, before the last correction with the ULDC, was there no designation of multi-family residential? Acting County Manager Tully replied that there were no duplexes. Commissioner Fricks asked about the selection of specific sites on the new map. Acting County Manager Tully replied that it was, if they had a duplex on them. Ms. Perry stated that the people who own the land probably don't even know how it is coded. Commissioner Fricks asked if this property already had a duplex on it. Acting County Manager Tully stated that it may be adjacent to it. He stated that he thought that the vast majority of parcels zoned Duplex, either already had a duplex or had already applied for a Special Use Permit of some sort. Ms. Perry replied that the owners had not, but someone else may have, who wants to develop it. Acting County Manager Tully stated that only the owner of property can apply for it to be rezoned, or someone acting as the agent for the owner. Commissioner Hufstetler asked for clarification that this is property which does not have duplexes, but has been designated as a duplex area, and asked Ms. Perry the zoning of her property. She replied it is zoned Suburban Residential with Commercial on Highway 27. She noted that next to the duplexes is Suburban Residential, which is the back part of her property. She stated that her property joined Mr. Beard's property and when he wanted to sell it a auction, he cut a road through it. They are talking about property which faces Beard Drive, but behind it is her property. Commissioner Hufstetler asked the location of the property which does not currently have duplexes, but is zoned for duplexes. The duplexes are at 107 Beard Drive and she had received a notice when the rezoning request was made since behind it are her woods. The property was owned by Ricky Davis, who owned two lots with approximately 100 feet frontage on each one. When she talked with Mr. Davis he stated that he would not tear down the house on the property and would build one duplex behind the house and two in the vacant lot, but built two and three. She stated that the Planning Commission had voted eight to two to approve. When she came to the Commission Meeting, she did not speak, but there was someone who had objected. His property is on Glenview, but the back of his property is across from this property and he was concerned about overflow from the sewage tanks, since he knew that there was no sewage down the road. One of the Commissioners had asked Mr. Davis what was on the land and he had replied that it was vacant. She stated that she had driven by the property that night to see if there was a renter living in it, and it was in the latter part of November and there were Christmas lights on in the house. It was being occupied and he built duplexes after getting his permit in a Suburban Residential area. She thinks that all of the property on Beard Drive is now coded D-R, including the corner lot where Julian Nix lives. His house and the one next to it faces Old Dalton Road. There is one piece of property between there and her house. Commissioner Jennings stated that it seems to him that the duplexes which exist there would be zoned for duplexes, but it confuses him

that vacant adjacent property has been zoned for duplexes. Ms. Perry noted that across the street, the south side of Beard Drive, was not changed from Suburban Residential. Acting County Manager Tully noted that the south side would remain Suburban Residential as you moved away from the duplexes, but suggested looking at the maps. Commissioner Hufstetler asked if this was approved and there are areas in duplexes, which should not be, then there will not be much of a mechanism to change it after that. Acting County Manager Tully stated that just because there is a duplex zone, a single family house is permitted to be built in the duplex zone, because that is a lesser use. He also noted the whole character of the Armuchee community, including Old Dalton Road, where there are a lot of subdivisions, has changed drastically with the widening of Highway 27 and the creation of the mall there. It was noted that Ms. Perry has property which extends back to Highway 27. Ms. Perry stated that she is trying to help retain the residential atmosphere. She has lived in the same house nearly all of her life and many people have lived around her 30 and 40 years or more and they would like to maintain a nice residential community. Inserting the duplexes here and there will not encourage people to build houses. Commissioner Hufstetler asked who would have made the determination to change the zoning. Acting County Manager Tully replied it was the Planning Commission. Commissioner Hufstetler stated that he feels Ms. Perry has a valid concern. Acting County Manager Tully stated that the map could be changed before it is adopted, but his concern is that any of the property owners may have reviewed the map or have made a request that these properties be considered this way. He noted that the existing use is threatened or that the property has to be developed as duplexes. Ms. Perry stated that if the property is sold, then duplexes will be built. Acting County Manager Tully noted that Highway 27 is more commercial and the residential is more dense on the Old Dalton Road than it once was. Ms. Perry had talked with three of the property owners and they did not know their property was designated for duplexes. Commissioner Hufstetler stated that this is a problem which they need to correct.

Beth Gibbons, 114 Harrison Road, stated that she is not a representative of any agency at this point. She stated that she owns the property across the street, on the south side of Beard, from the existing duplexes and she offered her support for changing this. She stated that she agrees with what Acting County Manager Tully had said, it doesn't necessarily mean that that is what will come in there, but it is allowed without any say from the residents who live in the area. That does threaten the integrity of that street. If the people want to change that and build duplexes later, they can then come back and apply for a different zoning. If the zoning is already granted, there is no recourse.

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

VOTING:

YES

NO

Commissioner Hufstetler

" Fricks

" Jennings

" Mahanay

Chairman Mayes

Motion Carried

Chairman Mayes called for a Motion to deny or approve. MOTION was made by Commissioner Jennings that the new amended Unified Land Development Code, along with all the policies and procedures in reference thereto in the official zoning maps be adopted and approved by this Board. He further moved that all policies and procedures and zoning maps initially approved by the Floyd County Board of Commissioners on December 22, 1998 shall be readopted by this Board subject only to the amended changes set out in the newly adopted ULDC. SECOND by Chairman Mayes.

Commissioner Hufstetler stated there had been thought about contacting the property owners and then making the change back if they were all in agreement. The only problem he sees with that is if there are property owners who don't want to change, then they have in affect been given a rezoning change without the adjacent property owners being notified or a public hearing being held. Chairman Mayes asked the County Attorney for a comment. County Attorney Wade Hoyt stated that if the change is made there will possibly be another public hearing needed. Acting County Manager Tully stated that, hypothetically, the owner says they will live here but do not care about changing the zoning because it could possibly be more valuable when they decide to sell, to someone who can develop it as a duplex. It may not happen for a few years, but the property retains it Duplex Residential status and a duplex ends up getting built there without any notification to the neighbors. It was asked if the one tax map could be separated out. County Attorney Hoyt stated that he has not seen that done, but he did not see any reason why not. Acting County Manager Tully stated that the 1998 zoning map for this one tax map would still be in effect, if this is done. It was noted that the intent is that only the properties which currently have duplexes, would be zoned for duplexes.

Commissioner Jennings amended his MOTION to exclude Tax Map 506B from the official zoning map. SECOND by Commissioner Hufstetler. VOTING:

YES

NO

Commissioner Hufstetler

" Fricks

" Jennings

" Mahanay

Chairman Mayes

Motion Carried

Commissioner Hufstetler commended Ms. Perry on having her facts together before coming to the meeting.

VARIANCES

FILE #013-01V, BETTY SEWELL, 2510½ CALLIER SPRINGS ROAD, VIOLATION OF MINIMUM SETBACK REQUIREMENTS.

Acting County Manager Tom Tully stated that the request is for variance of the minimum setback requirement. Ms. Sewell is requesting the variance to put in a metal carport, and the property narrows down on the back. The access to the property is East Boundary Street. It was noted that, because of the configuration of the property and landlocked nature of the property, the side yard is considered as back line and requires a 25 foot setback. The carport will be six feet from the side line.

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

YES

NO

Commissioner Hufstetler

" Fricks

" Jennings
" Mahanay
Chairman Mayes

Motion Carried

There was no one present in opposition to the request, but Acting County Manager Tom Tully stated that he did receive one of the letters he sent to adjacent property owners, with a note written on the bottom of the letter. The note stated "I am opposed to granting this variance, the Land Development Code was approved to protect property owners". This was signed "Maurice Gann for Ms. Diane/Dana Gann".

SUPPORT

Ms. Betty Sewell, 2201 North Broad Street, owner of the property. Ms. Sewell was asked where Ms. Gann lived in conjunction with the property. Ms. Sewell stated that she lives across East Boundary Street, the Gann house faces East 17th Street. It was noted that no one lives in the house, Ms. Gann is deceased.

One or two other property owners had called Acting County Manager Tully for further information and they did not have any concerns with the carport on the property. It was noted that there is six feet on one side, but 16 or 18 feet on the other side, and it is no closer than the corner of the existing house. MOTION was made by Commissioner Hufstetler to close the Public Hearing. SECOND by Commissioner Mahanay. VOTING:

YES

NO

Commissioner Hufstetler
" Fricks
" Jennings
" Mahanay
Chairman Mayes

Motion Carried

MOTION was made by Commissioner Hufstetler to **approve** the Variance for Ms. Betty Sewell on File #013-01V regarding the violation of minimum setback requirements. SECOND by Commissioner Jennings. VOTING:

YES

NO

Commissioner Hufstetler
" Fricks
" Jennings
" Mahanay
Chairman Mayes

Motion Carried

**FILE #014-01V, DR. DENNIS HELLER,
112 WARWICK WAY, VIOLATION
OF MINIMUM SETBACK REQUIREMENT.**

Acting County Manager Tom Tully presented slides showing the parcel with adjacent property owners identified and the proposed addition noting the distances from the property line. The need for the Variance is because it is an odd shaped parcel of land. MOTION was made by Commissioner Hufstetler to open the Public Hearing. SECOND by Commissioner Mahanay. VOTING:

YES

NO

Commissioner Hufstetler

" Fricks

" Jennings

" Mahanay

Chairman Mayes

Motion Carried

SUPPORT

Wayne Merritt, representing the contractor, stated the addition will be nice and the part which is encroaching is a patio on the ground level and main level. The patio will be approximately 18 to 18½ feet from the property line.

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

YES

NO

Commissioner Hufstetler

" Fricks

" Jennings

" Mahanay

Chairman Mayes

Motion Carried

MOTION was made by Commissioner Hufstetler to **approve** the Variance, File #014-01V for Dennis Heller, 112 Warwick Way, in violation of minimum setback. SECOND by Commissioner Jennings. VOTING:

YES

NO

Commissioner Hufstetler

" Fricks

" Jennings

" Mahanay

Chairman Mayes

Motion Carried

FILE #015-01V, ROBERT PHIPPS,

**55 PARKWOOD CIRCLE, VIOLATION
OF MINIMUM SETBACK REQUIREMENT.**

Acting County Manager Tom Tully stated that this is a setback issue and he presented slides showing the parcel and a hand drawing of the proposed plan. This will be a metal building. Rear and side setbacks would put the property into the corner of his house. Mr. Phipps would like to put the building as close to the property line as is approved.

MOTION was made by Commissioner Hufstetler to open the Public Hearing. SECOND by Chairman Mayes. VOTING:

YES

NO

Commissioner Hufstetler

" Fricks

" Jennings

" Mahanay

Chairman Mayes

Motion Carried

SUPPORT

Robert Phipps, 55 Parkwood Circle, owner of the property, stated that the building he wants to build is to store his truck in and for other storage items. The property behind his property drops off down to Dykes Creek and he feels nothing will ever be built there. There are picnic area at the creek. In order to put the building there, he needs it as close to the lines as possible. He has talked with his neighbors across the street and one on each side and they are all in agreement. It was noted that the creek is approximately 70 feet away and there is full growth woods there also.

There being no one present to speak in opposition, MOTION was made by Commissioner Fricks to close the Public Hearing. SECOND by Commissioner Hufstetler. VOTING:

YES

NO

Commissioner Hufstetler

" Fricks

" Jennings

" Mahanay

Chairman Mayes

Motion Carried

Chairman Mayes called for a MOTION to approve or deny the request. MOTION was made by Commissioner Fricks to **approve** the violation of minimum setback for Mr. Phipps on 55 Parkwood Circle. SECOND by Commissioner Hufstetler. VOTING:

YES

NO

Commissioner Hufstetler

" Fricks

" Jennings
" Mahanay
Chairman Mayes

Motion Carried

VOTE ONLY

County Attorney Wade Hoyt recused himself and left the meeting.

**FILE #04-2001SUP, CHATEAU DRIVE,
TAX MAP #262, AREA #00, PARCEL(S)
#5C, AND #12, REQUEST A SPECIAL
USE PERMIT IN A SUBURBAN
RESIDENTIAL ZONING DISTRICT
TO CONSTRUCT DUPLEXES AT
TOTAL OF 40 UNITS IN PHASES.
(DEFERRED FROM MAY PLANNING
COMMISSION MEETING)
(PLANNING COMMISSION RECOMMENDATION:
DENY [VOTE -3 FOR, 6 AGAINST])
(FIRST READING HELD JUNE 12, 2001 AT 2:00 P.M.)
(SECOND READING/PUBLIC HEARING HELD
JUNE 26, 2001 AT 6:00 P.M.)
(SECOND READING/PUBLIC HEARING HELD
JULY 10, 2001 AT 2:00 P.M.)
(SECOND READING/PUBLIC HEARING HELD
JULY 24, 2001 AT 6:00 P.M.)**

Acting County Manager Tom Tully stated that this had been discussed in Caucus and he had provided the Commission with a revised development plan as well as a contract which was signed between Pearson Development and the adjacent property owners which would provide a 275 foot buffer. In addition it calls for a 25 foot building setback line. Commissioner Jennings asked the storm water management procedure requirements in the code. Acting County Manager Tully stated that there are storm water and soil and erosion control measures that are both state ordinances and local ordinances which we enforce. No matter what type of development occurs, whether it is single family subdivisions, which would be permitted on this property by right or whether it is duplexes or a commercial application coming before the Board, in any case those storm water regulations as well as soil and erosion control measures would be in affect. The local ordinances are enforced and overseen by the Rome/Floyd Building Inspection Department, and there is a separate inspector who is charged with storm water and soil and erosion measures. He stated that those are our obligations and we will fulfill them no matter what type development, no matter who the developer is or where the property is located. It was noted that before Mr. Pearson receives a Land Disturbing Permit, he will have to submit a plan which is signed off on which addresses storm water management and soil erosion control. With a development involving this amount of acreage, he may be subject to daily storm water monitoring regulations, requiring that an engineer monitor storm water runoff on a continuous basis.

Preston Smith asked to update the Commission on the developments since the last meeting. Chairman Mayes stated that this is not a Public Hearing, but he would be allowed to speak. He had appeared previously on behalf of several of the homeowners in the Woodfin Subdivision. Since the last discussion, a number of homeowners who have property adjacent to the affected area have taken the step of purchasing as much property as Mr. Pearson would allow them to out of their own pockets, in order that they could protect as much of the hillside as

possible. He noted that he represents a limited number of people, particularly ones who live on the ridge, and he knows that other groups have voiced opposition to this in Saddlebrook Downs and other parts of Woodfin, which he does not represent. He stated that he knows that the other groups have concern about a large duplex community on the hillside. The group who purchased the property from Mr. Pearson so that they could protect as much of the property as possible. They do not support the duplex issue and they don't consider this a buffer zone of any sort because they are purchasing the property themselves in order to preserve it. They did want to do everything they could in the event the Commission did not see fit to create a buffer of any sort to protect this for themselves and future generations. The eight property owners, who he represents, on the hill have signed an agreement they would not actively oppose the permit application today. He stated that he knows there are many others with significant concerns who are hoping that the Commission will take very seriously this duplex issue. He also stated that it was his understanding that the Commission was going to require topographical studies and a survey to be produced, but they have not received any updated projection of any neighborhood plan. What they had done was simply to purchase as much of that property as they could to protect it in the hopes that the Commission will still deal with the issue of whether or not that Special Use Permit and a duplex community of that nature should go in.

Jim Kerscher, 14 Saddlebrook, stated they have gone through many ideas as to what is going on on Chateau Drive. The first question he had for Mr. Pearson and his associates is why they purchased this particular piece of property knowing the difficulties they would have to face to make this a viable duplex complex. Apparently they voted it down 6 to 3, then they bought the property and came to the County Commissioners for an approval. This does not make sense to him. He suggested that a bond could be put up by Pearson Associates so if something does go wrong and there is a problem, it could be rectified through the company, such as cell tower companies provide.

Commissioner Jennings stated that apparently there is already a storm water issue within Saddlebrook Downs and they are looking at storm water management on this particular site. He is not sure that anything is being done to study how one will affect the other. Acting County Manager Tully replied that the City of Rome is looking at the existing problems in Saddlebrook Downs, and those date back to possibly the inception of Saddlebrook Downs. He does not know if this is due to design flaws of the subdivision or not being properly engineered or a contribution of other development in the area. There are ordinances in place and whomever develops the property, even if a single family subdivision, the issues would basically be the same. Those are controlled through storm water management and soil and water erosion control. If he were to go to the Planning Commission with a plan, the storm water and soil and erosion protection measures are part of that before it is ever approved, including a retention pond, where necessary, to handle any increased runoff. The preliminary plans did show a pond.

Frank Jones, attorney for Mr. Pearson, stated that Mr. Pearson has addressed some of the concerns and he has attempted to address all the concerns. There is now a buffer area and the size and scope of the project has been reduced, which were the major concerns. The other issues are matters which will be addressed in the development of the project as would be done with any project, residential, duplex or commercial. He will have to make reports and satisfy the individuals and entities in charge of the development evaluation.

Commissioner Jennings asked if all of this should come before the Board so they can be satisfied that there is an integration between what the City of Rome is attempting to do with Saddlebrook Downs and this particular project. Acting County Manager Tully stated that it is his understanding that those issues being raised are not matters to be considered when zoning a piece of property. He also referred to the code. It was asked the number of units to be built and if there were problems with the property being sold and so this is a different piece of property. Acting County Manager Tully stated that obviously one component of any storm water and soil erosion plan is its impact on adjacent property.

Mr. Jones stated that it is his understanding that the original development consisted of in excess of 40 lots, and it is his understanding that it has been scaled down to approximately 28, which is 30%. He stated that this is a preliminary proposed development and obviously when a subdivision plan is presented, all of these other factors will have to be presented to the Planning Commission and the various entities responsible for the supervision and approval will have to sign off.

Chairman Mayes called for a Motion. MOTION was made by Commissioner Fricks for **approval** of the Special Use Permit request for File #04-2001SUP on Chateau Drive. SECOND by Commissioner Mahanay. Commissioner Jennings stated that the Motion included 40 units and we are told there is a maximum on the drawing of 28 units, it may be less than 28 if it includes the sedimentation pond or ponds in the area. He questioned if the Motion needs to be amended to a maximum of 28 units. Commissioner Fricks stated that the ULDC will reduce the number of units because of the amount of property. Commissioner Jennings requested that Commissioner Fricks amend his Motion to a limit of 28 units. Commissioner Fricks amended his MOTION to allow the Special Use Permit, allowing only 28 units in phases of File #04-2001SUP. SECOND by Commissioner Mahanay.

Mr. Jones noted that it needs to be submitted as 28 lots to prevent future issues. Mr. Smith noted that there had been Motion to deny the request that had been tabled.

Chairman Mayes asked the County Clerk to call the roll for the Motion that had been tabled to deny the request. VOTING:

YES	NO
	Commissioner Hufstetler
	" Fricks
Commissioner Jennings	" Mahanay
	Chairman Mayes

Motion Denied

Acting County Manager Tom Tully stated that the Motion to Deny has been denied. You can now address the current Motion to approve which has been amended to 28 lots.

YES	NO
Commissioner Hufstetler	
" Fricks	
" Mahanay	Commissioner Jennings
Chairman Mayes	

Motion Carried

MOTION was made by Chairman Mayes for a 5-minute break. SECOND by Commissioner Fricks. VOTING:

YES	NO
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Commissioner Hufstetler
" Fricks
" Jennings

Commissioner Mahanay

Chairman Mayes

Motion Carried

County Attorney Wade Hoyt returned to the meeting at this time.

COMMISSIONER'S REPORT

ADMINISTRATIVE/FINANCE COMMITTEE.

Commissioner Hufstetler, Committee Chairman, reported their monthly meeting will be next Monday at 2 p.m.

PUBLIC SAFETY COMMITTEE.

Commissioner Mahanay, Committee Chairman, stated the Old Black's Bluff Road is closed, the new road has some traffic, and they are striping it this week.

PUBLIC WORKS COMMITTEE.

Commissioner Fricks, Committee Chairman, asked the status of Woodcliff Drive on the paving list. Acting County Manager Tom Tully replied that they are still working on it. Commissioner Fricks noted that it has been submitted to the Public Works Committee and it has been voted on, but they need to make sure that the Board has not taken any action.

WATER COMMITTEE.

Commissioner Jennings, Committee Chairman, stated the next Water Committee Meeting will be Thursday, August 23.

CLERK'S REPORT

CONSENT AGENDA.

County Clerk Michele Fountain stated there were four items on the Consent Agenda which were not covered during Caucus. She listed the items then submitted them for approval.

MOTION was made by Commissioner Hufstetler to approve the Consent Agenda.
SECOND by Commissioner Jennings. VOTING:

YES

NO

Commissioner Hufstetler
" Fricks
" Jennings
" Mahanay
Chairman Mayes

Motion Carried

1. Tax Refunds:

- a. James E. Heard, 528 N. Avery Road, NW, \$25.56
- b. Sanders J. & Gladys R. Atkins, 10 Montre Circle, SE, Silver Creek.
\$113.57
- c. Preston E. Ford, P.O. Box 51, Taylorsville, \$20.48
- d. Robert Jenkins, 119 Autry Road, SW, Plainville, \$187.96
- e. J. L. Todd, P.O. Box 553, \$160.26
- f. F. Larry Salmon, P.O. Box 7, Armuchee, \$68.21
- g. Harvey D. & Jessie B. Shelley, P.O. Box 802, \$25.70
- h. Harvey D. Shelley, P.O. Box 802, \$19.95
- i. Joel A. Johnson, 2742 Old Cedartown Road, Lindale, \$33.75
- j. Irene & Clyde L. Hamilton, Jr., 1 Don Drive, NE, \$24.64
- k. Scott & Angela T. Minge, 391 Canard Road, \$14.89
- l. D. Arnold & Bobbie J. Buffington, 10 Idlewood Court, \$23.15
- m. Robert L. & Jessie J. Andrews, 312 East 8th Street, \$23.70
- n. Jack W. Jacobs, 883 Booger Hollow Road, SW, Lindale, \$5.48
- o. Amy D. Worthington, 1654 Bailey Road, SE, Aragon, \$17.67
- p. Charles L. & Cynthia G. Ables, P.O. Box 221, \$36.79
- q. J. F. & Barbara Eller, 2 Kenwood Drive, SW, \$14.65
- r. Robert J. & Lynnett Shepard, 5 Hayes Place, SE, Silver Creek, \$102.12
- s. Eric & Patrice K. Dubanevich, 10 Lovell Lane, \$2.76
- t. Delorres D. & David Hightower, P.O. Box 1031, \$2.30
- u. Marjorie Lane Trammell, 2 Denny Drive, \$86.32
- v. Emily Clement & Albert Sydney Payne, 192 Clement Road, NE, \$36.32
- w. Lila Culberson, 203 Coker Drive, \$6.91
- x. Julius B. & Teresa J. Dodd, III, 1374 Haywood Valley Road, NE,
Armuchee, \$45.11
- y. Rex I. & Teresa G. Treadaway, 2670 Wax Road, SE, Aragon, \$83.39
- z. M.H. & Betty Carpenter, Box 270--Carpenter Road, Calhoun, \$34.26
- aa. M.H. & Betty Carpenter, Box 270--Carpenter Road, Calhoun, \$314.52
- bb. Margaret Ann Darby, 106 Old Airport Road, \$119.25
- cc. Paul E. & Gerrell A. Smith, 2 Saddle Horn Drive, SE, \$43.55
- dd. David Vann & Elizabeth Barnes, 1585 Burnett Ferry Road, \$425.75
- ee. Ira John & Temple L. Espy, 4720 Ridge Crest Road, NW, Hixon, TN,
\$79.62
- ff. Glenn C. White, P.O. Box 340, Cedar Bluff, AL, \$32.40
- gg. John W. & Robert K. Abernathy, 298 Bellview Road, Rockmart, \$829.27
- hh. Stephen B. & Juanita Lynn Smith, 123 Windwood Way, NW, \$69.51
- ii. Anita L. Krueger, %Glennice C. Parker, 12 Buck Trail, \$8.82
- jj. Dynthia Crichlow, 609 Shorter Avenue, \$26.88
- kk. Thelma Y. & John P. Berry, 102 Collinwood Road, \$68.22
- ll. Vernon H. & Mary J. Morris, 384 Gaines Loop Road, NE, \$14.87
- mm. Ellen Leonard/Stylist Dixies Beauty, 423 Bells Ferry Road, NE, \$1.27
- nn. Johnny A. & Glennice C. Parker, 1089 Old Dalton Road, NE, \$56.28
- oo. Larry C. Martin, %Martin Real Estate Co., 2004 Dean Street, \$144.80
- pp. A. A. Garmany, 1150 Ward Mountain Road, NE, \$5.95
- qq. Jerry & Harleen Blankenship, 218 Pinson Road, NE, \$124.54
- rr. Elgin B. & Thelma H. Williams, 1591 Wax Road, SE, Silver Creek, \$9.47
- ss. Ralph L. & Shirley E. Dodd, 317 Robinhood Road, \$8.65
- tt. Gayle T. Godfrey, P.O. Box 391, Cave Spring, \$5.55
- uu. Clayton E. Freeman, 505 Woodbine Avenue, \$62.51

vv. M. Elizabeth Scott, 1803 High Street, \$29.83
 ww. Shirley C. & Anita A. Mallory, 204 George Road, Cave Spring, \$209.22
 xx. Sidney E. & Arby Fuller, 54 Byrd Station Road, SE, Silver Creek,
 \$119.14
 yy. Larry C. Carr, 3 Kris Drive, NE, \$.95
 zz. Sandra H. Hobgood, 1 Weathers Road, \$18.65
 aaa. J. E. Cordle, 1 Greenbriar Lane, \$14.67
 bbb. Olene & Maxine Self, 219 Autry Road, NE, Adairsville, \$2,269.27
 ccc. Michael H. & E. Dan McDougald, P.O. Box 5362, \$42.83
 ddd. Dannie & Elsie Minter, 1029 Doyle Road, Cedartown, \$21.41
 eee. Danny Minter, 1029 Doyle Road, Cedartown, \$5.96
 fff. Brian H. Lieberman, 19 Meadowood Drive, NW, \$47.66
 ggg. Betty Conaway, 25 Holland Drive, SE, \$157.16
 hhh. Howard Ray Davis, 5308 Big Texas Valley Road, NW, \$33.09
 iii. Horace W. & Doris M. Yother, 6 Crandalls Court, SE, \$64.69
 jjj. John Lane, 417 Elliott Drive, \$21.95
 kkk. Rick E. McQueen, 211 Billy Pyle Road, \$104.36
 ll. Ann S. Adams, 17 Rosewood Road, \$82.22
 mmm. Rickey Shedd, 301 Barker Road, SW, \$12.34
 nnn. Tom Bennett Company, Inc., P.O. Box 1471, \$2.44
 ooo. John C. & Kelly K. Henderson, 1025 New Freeman Ferry Road, SE,
 \$58.59
 ppp. B. J. Johnson, 8 Mark Street, NE, \$67.50
 qq. Kerry Brown, 10 East Main Street, \$56.16
 rrr. Bill Dempsey & Jerry E. Dempsey, Sr., 241 Dempsey Road, \$6.69
 sss. John M. Simpson, 500 New Rosedale Road, NE, Armuchee, \$71.52
 ttt. Grace A. Mathis, 1888 Chulio Road, SE, \$34.41
 uu. Tony & Teresa Morris, 765 Park Avenue, Lindale, \$60.02
 vv. Thomas C. & Joshua M. Stager, 866 Marion Dairy Road, SE, Lindale,
 \$30.38
 www. Stuart & Carol Binger, 432 Melson Road, SW, Cave Spring, \$595.27
 xxx. Jody F. & Kimberly D. Shepard, 1502 Old Dalton Road, NE, \$6.13
 yyy. Carol A. Winkle, 21 Franklin Street, \$179.51
 zzz. Lee Edward Selman, 6 Elmwood Street, \$36.77
 aaaa. Randall M. Green, 4752 Old Dalton Road, \$121.32
 bbbb. Martha Lou Puckett Green, 229 Nichols Road, SE, \$23.40
 cccc. James N. Kerce, 767 Ward Mountain Road, NE, Kingston, \$37.05
 dddd. VTI of Georgia, Inc., 1000 Industrial Park, Holstein, IA, \$4,284.03
 eeee. Worldwide Real Properties, 2 Ravinia Drive, Suite 1750, Atlanta,
 \$313.32
 ffff. Larry Ted & Maria Dianne Garrett, 16 Arrowhead Drive, SE, \$74.39
 gggg. A. H. Griffeth, 18 Locust Street, \$17.55
 hhhh. James Gilbert Rhyne, 1934 Pleasant Valley Road, SE, Silver Creek,
 \$49.51
 iii. Maud A. Mullins, %1st National Bank/Florida, P.O. Box 40062,
 Jacksonville, FL, \$380.33
 jjjj. Ralph E. Simpson, 576 Friday Road, NW, \$3.61
 kkkk. Rhoda J. Newman, 509 South Broad Street, \$45.42
 ll. Randall McFry, 2657 Old Cedartown Highway, \$12.15
 mmmm. Ann S. Spears, 162103 Deerbrook Drive, \$19.57
 nnnn. C. Edwin Morris, 1622 Cave Spring Road, SW, \$43.37
 oooo. Kerce R. & Katherine Dempsey, P.O. Box 1143, \$3.34

- a. Debra Reynolds/Sav-a-Ton, 3173 Martha Berry Blvd., Rome
(convenience store).
- b. Connie Bannister/Sav-a-Ton, 5880 New Calhoun Highway, Rome
(convenience store).
3. Approve request from Tax Commissioner to remove attached list of bills from Tax Commissioners Roll.
4. Authorize pay adjustment for Tom Tully for period of August 14 - November 14, 2001.

MANAGER'S REPORT

AUTHORIZE EXECUTION OF DEPARTMENT OF COMMUNITY AFFAIRS CONTRACT IN THE AMOUNT OF \$25,000 FOR RENOVATION OF COURTHOUSE.

Acting County Manager Tom Tully noted that these items were also not discussed during Caucus. There has already been discussion on this item. This is the grant amount included by Senator Marable during the last session to help defray some of the costs in renovating the courthouse. He submitted the contract for authorization for the Chairman to execute the documents. MOTION was made by Commissioner Jennings to authorize the execution of the Department of Community Affairs contract in the amount of \$25,000 for the renovation of the courthouse. SECOND by Commissioner Fricks. VOTING:

YES

NO

Commissioner Hufstetler
" Fricks
" Jennings
" Mahanay
Chairman Mayes

Motion Carried

APPROVE COST SHARING AGREEMENT WITH ARMY CORPS OF ENGINEERS FOR PRE-CONSTRUCTION ENGINEERING OF THE MAYO'S BAR LOCK AND DAM RENOVATION/REPAIR PROJECT.

Acting County Manager Tom Tully recommended authorizing the Chairman to sign to sign the documents. MOTION was made by Commissioner Hufstetler to authorize the Chairman to sign the documents approving the Cost Sharing Agreement with the Army Corps of Engineers for the pre-construction engineering at the Mayo's Bar Lock and Dam. SECOND by Commissioner Fricks. VOTING:

YES

NO

Commissioner Hufstetler

" Fricks
" Jennings
" Mahanay
Chairman Mayes

Motion Carried

**DISCUSS REQUEST FROM SHERIFF
TO CREATE TWO (2) NEW WARRANT
CLERK POSITIONS (PAYGRADE 107)
AT THE JAIL.**

asked if the meeting. Acting County Manager Tom Tully stated that there had been discussion this item and Board wanted him to proceed with this item. This item was deferred until the next

**AUTHORIZE EXECUTION OF RIGHT
OF WAY AGREEMENT WITH DEPARTMENT
OF TRANSPORTATION REGARDING
MORTON BEND ROAD. (PR-2-3(115))**

This item was deferred.

**AUTHORIZE EXECUTION OF
DEPARTMENT OF TRANSPORTATION
DOCUMENTS PERTAINING TO
PIRELLI DRIVE. (PR-973-1(115))**

Acting County Manager Tom Tully stated that these documents are to certify the right of way. They have had conversations with D.O.T. and the numbers they have presented for budgeting are approximately one-third of the amount they had originally relied on so there is work to be done to get it back up to the \$300,000 originally relied on. By authorizing these documents they are certifying that the county does have the right of way so that the project can move forward. He submitted the documents for the Chairman's signature. MOTION was made by Commissioner Hufstetler to authorize the execution of these documents for the Department of Transportation pertaining to Pirelli Drive. SECOND by Commissioner Mahanay. Commissioner Hufstetler stated that when this was originally discussed it was the understanding that D.O.T. would be providing \$300,000. Acting County Manager Tully stated they do not have anything in writing yet, but this is the figure he had been given by the District Engineer. It may be necessary for further work to be done to refresh memories on the higher figure. He and Commissioner Fricks will keep an eye on this and make a trip to Atlanta if necessary.

VOTING:

YES

NO

Commissioner Hufstetler
" Fricks
" Jennings
" Mahanay
Chairman Mayes

Motion Carried

**AUTHORIZE EXECUTION OF
COOPERATIVE AGREEMENT
BETWEEN FLOYD AND POLK
COUNTIES AND NATURAL
RESOURCES CONSERVATION
SERVICE OF UNITED STATES
DEPARTMENT OF AGRICULTURE
AMENDMENT NUMBER 1 FOR
FISCAL YEAR 2002.**

Acting County Manager Tom Tully stated there had been discussion last year regarding how the contract would be set up. The figure for this year does represent an increase of between 3% and 4% on our part. The responsibility of Polk County is adjusted as well. There had been questions last year that this is being evenly split and they had determined that the percentage of increase is equal. He submitted the Agreement for approval. MOTION was made by Commissioner Jennings to authorize the execution of the Cooperative Agreement between Floyd and Polk Counties and Natural Resources Conservation Service, United States Department of Agriculture Amendment Number 1 for Fiscal Year 2002. SECOND by Commissioner Mahanay. VOTING:

YES

NO

Commissioner Hufstetler
" Fricks
" Jennings
" Mahanay
Chairman Mayes

Motion Carried

**DISCUSS HIRING GEORGIA
RIGHT OF WAY SERVICES TO
PROVIDE RIGHT OF WAY
ACQUISITION SERVICES FOR
TURNER BEND ROAD PROJECT.**

Acting County Manager Tom Tully stated that he had called them for clarification of some of their pricing and the figures he has may be different from those received by the Commissioners. There are three phases to the acquisition to this property. The first step is the creation of a Project Data Book. The original proposal was that it would cost \$7,250. The figure for that phase is \$3,400. The next phase is actual negotiation with the property owners, with the Data Book giving them values. The next phase is the actual acquisition and that is proposed to be at a rate of \$525 per parcel. There is a total of eight parcels, one of which is owned by the Hospital Authority. There seems to be seven parcels which will receive friendly consideration in terms of right of way. The second phase would be \$3,625 if all goes well. If any of the properties need to go to the last step where it goes into condemnation, then there is a cost of \$1,500 per parcel to prepare the narrative reports needed in condemnation. Likely we won't need anything more than the \$7,075, if we do not have to go into any condemnation. He recommended approval of this item. It was noted that any necessary attorney's fees would be in addition to this fee. MOTION was made by Commissioner Hufstetler to approve the hiring of Georgia Right of Way Services to provide acquisition services for the Turner Bend Road Project. SECOND by Commissioner Mahanay. VOTING:

YES

NO

Commissioner Hufstetler

" Fricks
" Jennings
" Mahanay

Motion Carried

Chairman Mayes abstained from voting since the Turner Bend Road Project is associated with Inland and he is associated with Inland as one of their contractors.

**ENTER INTO CONTRACT WITH
GRADIENT CORPORATION FOR
PCB CONSULTATION.**

Acting County Manager Tully stated that it is his understanding that this had been discussed at the Board's Retreat. The County does have an authorization to proceed with Terry Bowers, who is the principal with Gradient Corporation. She has been instructed that there are two separate projects; one is the Lock and Dam and the second project is the Landfill Remediation. These will be treated as two separate projects and billed as two separate projects. We are hiring her and her firm on a time and hourly basis along with a 10% discount for Floyd County. Regarding the time frame for receiving this information, she is aware the Lock and Dam is a time sensitive issue and should be able to submit a preliminary report within the next couple of weeks. The Landfill Remediation is not as high a priority and that should be no more than 90 days. MOTION was made by Commissioner Hufstetler to enter into a contract with Gradient Corporation for PCB Consultation as recommended by the Acting County Manager. SECOND by Commissioner Fricks. VOTING:

YES

NO

Commissioner Hufstetler

" Fricks
" Jennings
" Mahanay

Chairman Mayes

Motion Carried

Commissioner Hufstetler asked for an update on the Morton Bend project. Acting County Manager Tully stated that he has the right of way agreement. Mr. Doyle is supposed to be helping the county with this process. It is his understanding that he would get the agreement and talk with the individual property owners to help get them taken care of. We are waiting for the agreements to be picked up. Acting County Manager Tully is to follow up on this item.

Commissioner Jennings stated that the Fire Department of the City of Cave Spring has been working hard to raise money for a special Engine Camera for the Fire Department. They are about half way there. He asked if the Commissioners would support having the Acting County Manager talk with the City of Cave Spring Council to see if they would be interested in matching a grant to the Fire Department for an Engine Camera. He stated that both governments benefit from the Fire Department there and both should be contributing something to this project.

Acting County Manager Tully asked if this will be coming from the Fire Fund. Commissioner Hufstetler noted that they do not participate in the Fire Fund Tax District, they are exempt from that. It was noted that this is a camera which they will be able to see through a wall to see if there are people are in a burning building. It was agreed that the Acting County Manager is to explore ways that this could be accomplished and discuss talking with the City of Cave Spring about participating in this. County Attorney Wade Hoyt stated that it should not be paid from the Fire Fund, if you are going to pay for it at all, it would be a better argument out of the General County Fund that it is beneficial to the County. It was noted that the Fire Fund is paid by the unincorporated area and the General Fund is paid by City and County residents.

ADJOURNMENT:

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

YES

NO

Commissioner Hufstetler

" Fricks

" Jennings

" Mahanay

Chairman Mayes

Motion Carried

COMMISSIONERS

FLOYD COUNTY BOARD OF

JOHN MAYES, CHAIRMAN