

August 28, 2001

Called Meeting

**CALLED MEETING  
FLOYD COUNTY BOARD OF COMMISSIONERS  
August 28, 2001 12:00 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 Acting County Manager Tom Tully.

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

**INVOCATION:** Chairman Mayes led the Invocation.

**PUBLIC HEARING REGARDING  
MILLAGE RATE.**

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

YES NO

Commissioner Hufstetler  
" Mahanay  
Chairman Mayes

Motion Carried

Chairman Mayes stated that the Public Hearing was open.

***Commissioner Jerry Jennings joined the meeting at this time.***

**Avonelle Brown, 71 Flowery Branch Road, NE, Kingston,** stated that she has complained every time there has been a tax raise and evaluation. She has made an appeal on her assessment. Commissioner Jennings asked her about the condition of her road. Mrs. Brown replied that it has not changed, there is a section of dirt road from where she had a barn at one time to where houses have been built on the extension of the Flowery Branch Road to East Hermitage Road. She stated that as far as she knows the road can be traveled. She asked why they were reevaluating everything again, since it has been done for she does not know how many years. Mrs. Brown stated that she has inherited her property from her father and she is the third generation that has lived in the same spot on the same property. She has not made any improvements to the property, it has gone down. She has three rental houses, one is on the dirt part of the Flowery Branch Road and they will not run water there since she is told that it will cost too much. She has another house which needs repairing and has been empty for a year, because she cannot afford to have it fixed and it is an old house. Her other house, which is rented, and is a sad luck story for the renter. The renter and his wife were working in Calhoun and they have four children under eight years old and are expecting another in October. About

two months after she rented to them, the wife was laid off, but got another job, he was also laid off and got another job. As of one month ago, she has not received any rent on the house. She rents pasture and Tri-State stated that anything with grass is pasture, but she does not agree. In her opinion, anything she has fenced is pasture, and that is what she rents. She stated that she is told that the evaluation is according to the surrounding area and they have built a lot of houses on Ward Mountain and Wayside Road. When she rode by there this morning, there were a lot of For Sale signs, which have been there for a long time. She does not understand why it keeps going up. Mrs. Brown stated that she draws \$349 Social Security each month. She stated that her husband also draws Social Security, but he does not pay her bills. She has to save all year long to save enough to pay the taxes, which run almost \$3,000 a year. When she came to the Tax Office to check on her tax figures, she could not believe that her reevaluation had increased that much. Tri-State tripled her tax in 1991 and it has gone up every year since. She had read in the Rome News that there is an \$18 million surplus and asked what they planned to do with that money. She stated a new school had been built at every location and wanted to know what would be done with the old schools.

Commissioner Hufstetler stated that the School Board runs the school system. Mrs. Brown asked what her Millage Rate will be for this year. Commissioner Hufstetler replied that there will be a total of approximately 26 mills, counting the School Board which is the majority of the Millage Rate. He stated that the Commissioners do not have any connection legally with what the School Board does. The Commissioners run the County government, which is the court system, police, the roads. Our Millage Rate this year will be approximately 8½ for the County M & O (Maintenance and Operations). Mrs. Brown stated that she is more concerned in the total. Commissioner Hufstetler noted that his assessment was an increase of \$25,000. Mrs. Brown stated that her increase was \$63,000. In response to her question about the Fund Balance of \$18 million, he stated that it is earning approximately \$1.5 million in interest. If the \$18 million was not there, then taxes would increase to pay for the amount interest is now paying for. He stated that we do not currently have \$18 million in the bank. There was \$18 million on January 1 and it decreases throughout the year until property taxes come in November. In the past the County would borrow money to get by until the property tax was received in November. Now we do not have to borrow money by doing that. Our share of property taxes taken in had been approximately \$20 million, three years ago and now it is approximately \$18 million. It has actually dropped, but the reassessment is one of the things that causes a tax shift. They had asked the State Legislators in the past, and he hopes they will address it again this January, to put a law that says that your homeowner assessed value would be frozen at whatever level it is until you sell it. Mrs. Brown stated that she hopes her property will go down through generations, but she doubts it will. Commissioner Hufstetler stated that probably when it passed to the next generation, it would have to be reevaluated, but as long as she was the owner it would stay the same under that law. He stated that in his opinion, even though they have reduced taxes, there has been a shift from business to the homeowner because a lot of the business assets are on a depreciation schedule. Whereas a homeowner's house would be reassessed and it would be valued for more. Even though they have cut taxes as a Commission, it is being shifted from businesses onto homeowners. This is why they have asked the State Legislators to place a freeze on the homeowners assessment to protect them. Mrs. Brown stated that she has not seen the tax appraisers. Commissioner Hufstetler stated that he does not agree with everything they do and he would like to see this done on a three-year rotating basis and personally visit the property. However, if they don't go out and keep things at a certain level and the State says that they are not assessing property at what it could sell for and they will be penalized. The money for the penalty would basically be taken from the County and given to the State. The Tax Appraisers have their job to do and we would like to take the burden from them by freezing the homeowners property. It will require the legislators to place this on the ballot for the people to vote on. Other counties have done this in the last year and he feels that it would be an ideal protection for the homeowner in this community. He stated that they can do all they can to keep taxes down, and the tax rate is lower, but the value of property is increased. Mrs. Brown asked why it is increased each year? Commissioner Hufstetler stated that he would like to see it be done on a three-year rotating basis, which is how it is generally done around the state, and that they would personally

visit the property every three years, but they are an independent board and the Commission has limitations on what it can do.

Commissioner Mahanay asked if she had appealed her assessment? Mrs. Brown replied that she has appealed it every year and it helps a little, but not much. She stated that she is concerned about the amount of School Tax because she pays more School Tax than County Tax and she currently does not have any family in the Floyd County schools. Commissioner Mahanay stated that as Commissioner Hufstetler had pointed out, the school taxes are separate from what the Commission is working with. Commissioner Hufstetler stated that he is glad that Mrs. Brown realizes that the School Tax is the majority of her taxes, a lot of people do not realize that.

***Commissioner Fricks joined the meeting during the discussion.***

Commissioner Fricks stated that they are compassionate to her problems and do try to do as much possible to control the spending in Floyd County. Chairman Mayes noted that most of the complaints he has received are from people with limited or fixed incomes. He stated that they have to try to get together and work out a solution. Mrs. Brown stated again that her husband gets a pension, but he does not pay her bills and she inherited the property from her family. She has one daughter, a granddaughter and grandson and she hopes to pass it on to them, if she can just keep it, but it looks like she will have to sell some to pay the bills. She stated that when she went to the Tax Office to check on her taxes she had asked if they had any job openings, that she would go to work, but she is too old to be hired. Chairman Mayes stated that in his business they hire people with a little maturity because they make the best workers.

Mrs. Brown stated that she is very dissatisfied with the taxes increasing every year, the evaluations increasing and if she cannot pay it, she will come and ask for a loan. Chairman Mayes stated that he feels the Commission is dedicated to trying to get something done about the taxes related to people with fixed incomes. It is not within their jurisdiction, but they can try to help get something done. Mrs. Brown stated that until her father died, in 1980, and several years after, there were not much taxes, but then it started to increase. She thanked them for giving her the opportunity to speak. The Commissioners thanked her for taking the time to come to speak.

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

**ADJOURNMENT:**

MOTION was made by Commissioner Jennings, SECOND by Commissioner Mahanay, that the meeting be adjourned. VOTING:

YES NO

Commissioner Hufstetler  
" Fricks  
" Jennings

" Mahanay

Motion Carried

**FLOYD COUNTY BOARD OF  
COMMISSIONERS**

**JOHN MAYES, CHAIRMAN**

Regular Meeting

**REGULAR MEETING  
FLOYD COUNTY BOARD OF COMMISSIONERS  
August 28, 2001 6:00 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 Acting County Manager Tom Tully.

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

**INVOCATION:** Commissioner Hufstetler led the Invocation.

**PLEDGE OF**

**ALLEGIANCE:** Boy Scout Troup 56 presented a Flag Ceremony and led the Pledge of Allegiance.

Chairman Mayes thanked Troup 56 for their presentation and attendance. Commissioner Jennings complimented them on a job well done and invited them back to make another presentation in the future.

**ADOPTION OF**

**MINUTES:** Commissioner Hufstetler made a MOTION to adopt the minutes of the Regular Meeting of August 14, 2001 and Called Meeting of August 21, 2001 as presented. SECOND by Commissioner Fricks. VOTING:

YES

NO

Commissioner Hufstetler

" Fricks

" Jennings

" Mahanay

Chairman Mayes

Motion Carried

**PUBLIC HEARING REGARDING  
MILLAGE RATE.**

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

YES

NO

Commissioner Hufstetler  
" Fricks  
" Jennings  
" Mahanay  
Chairman Mayes

Motion Carried

Chairman Mayes stated the Public Hearing was open. There were two people who wished to speak regarding the Millage Rate.

**Ruth Cargle, 420 Sproull Road**, stated that she lives in the Kingston Highway area and asked who had appraised their property. Their taxes had increased \$16,000 this year and there have been no improvements on their house or property for a number of years. The last two years their taxes have increased approximately \$24,000. She considers this to be ridiculous as well as the Millage Rate that will be added to the taxes for garbage. She stated that she does not want anything else added to her taxes. She stated that she is on a fixed income, and does good to survive each month.

Commissioner Hufstetler stated that she would be paying a Millage Rate four different ways. One is the School Board, which is a different body than the Board of Commissioners, and is about 15 mills of the amount she will be paying. The second largest is the County for the courts, jails, police, roads, etc., and is about 8.5 mills. The Solid Waste is .85 mills. The Millage Rate has not been increased at all, they have taken the General Fund, because it needed to be separated out into its own tax, and the Millage Rate from last year and dropped it to an amount equal to the increase both in that fund and the Fire Fund. The County contracts with the City of Rome for fire services beginning in 1994 and will continue until 2003. The City of Rome increased that. The General Fund (M & O Fund) has been decreased in the equal amounts. The resident asked about adding this to the water bills so everyone who gets a water bill would have to pay. She also stated there are a lot of people who do not pay taxes. Commissioner Hufstetler replied that one of the problems is that not everyone gets county water, some people are on wells, and some people in the County are on City water. Commissioner Hufstetler noted that they operate within the constraints of what can legally be done and what the State will allow. They have not increased the Millage Rate, the General Fund Millage Rate over the last three years has dropped 22.8%, that is not counting the School Board portion of the Millage Rate, that is just the County.

Commissioner Jennings noted that the increase can be appealed.

Mrs. Cargle also stated that the road on which she lives had been repaved and crews were suppose to come back and pull the dirt up to the pavement and fix them a good ditch so there would not be a drop off. They did not fix the road so she called them and asked them to come and fix the ditch. They fixed part of it, but not the part she wanted fixed.

Commissioner Fricks responded to her statement. They had a Public Hearing with the neighborhood when they started the process. They talked about the resolution because the road was too narrow in the

beginning and was very dangerous. As much width of paving as possible was added. He stated that he thinks they are trying to resolve the situation and that it is an improved situation. She stated that it is improved, but they did not do what they said they would do. Commissioner Fricks stated that if that is the case and she would let him know when she called, he will contact someone about responding to her call. She stated that they came out and did part of the ditch, but not all that she had requested.

Commissioner Hufstetler noted Ms. Cargle had mentioned the increased assessment. He explained to her that the Tax Appraisers are an independent body that does the assessments. In defense of them, the State will penalize a County if they do not feel like they are assessing at the proper level. It is a real problem and the effect of that is for three years the amount that was being taken in as Commissioners for operations was more than we are taking in now. We have cut in real dollars the amount of money that the County government is taking in. One of the things that has happened, for example, is that you have a business, and maybe your equipment is depreciating off the books, because that is how the law works. Your home depreciates and so they would get more of a benefit than someone who doesn't have depreciating assets, their value goes up. This is particularly hard on someone on a fixed income. One thing that happened a year ago in Cobb and Gwinnett Counties is they put in place a law that froze the value of a house for a homeowner until the house is sold, at which time it would go up to whatever it was sold for in value. That is not something that the County Commissioners can legally do, but they have petitioned the state legislators. They will have to legally authorize the citizens to vote on this. He stated that he felt this is the solution to the continued increased assessments and then if more money is needed, a straight millage rate increase would be a more upfront and honest way to do this. Ms. Cagle stated that since they say they could not add this to the water bill, why not go up on the sales tax. Commissioner Hufstetler stated that they cannot add a sales tax, he would like to do that. He stated, "For approximately 1 1/4¢ sales tax, we could eliminate all of the property taxes which come to this body in Floyd County, but we have no jurisdiction." That is state law and the County has no control of it.

Commissioner Jennings stated that one area they have relative control of is recycling and now Floyd County residents recycle approximately 5% of the solid waste that goes into the landfill. If that could be increased to 50%, we would be able to reap the benefits of selling the recyclable materials, and could get rid of the tax and Millage Rate. The challenge for all of us to recycle as much as we can. It was noted that the Potts Road dumpsite is the test site for new recycling program. It has been a very positive test, the only problem has been that initially they were receiving more than they could handle.

Commissioner Fricks stated that there is a misperception in terms of the tax for Solid Waste. The Solid Waste tax has always been there, it was just incorporated into the entire Millage rate.

**Jimmy Smith, 464 Bells Ferry Road**, stated that he was concerned with the way property was being assessed in the County. He asked what is the current Millage Rate for a County resident. Mr. Smith stated that at the rate they are reassessing property the Millage Rate probably won't be 10 in a few years and they will be generating twice as much money as they have been. He stated that he spoke with Tax Assessor Bill McWhorter for approximately one hour on the phone and fifteen minutes of that was spent explaining to him who the Board of Assessors report to. He was told that it was State law. That is a book, a piece of paper, if we are hiring or appointing someone who answers to a piece of paper, then we need to redo it. He feels that we suffer from "its always been done that way". What else can be done? Somebody appointed those people,

the previous Commission, your Commission. He stated that he hopes it is not a lifetime appointment like a Federal Judge. He built his home in 1992 and the taxes have gone up since that time. The original value was approximately \$158,000, and it is now just shy of \$300,000, and no improvements have been made since

1992. He has gotten the average 8% to 12% increase each year. Mr. Smith stated that he was born in this county, he left for ten years, lived in Tampa, Florida and Acworth, Georgia, owned a \$100,000 home there and his taxes were a little over \$300 a year. They say industry supports the base in Cherokee County. There is a lot of new industry in town and he hears a lot about the word "abatement". He stated that this is a free ride for five to fifteen years for industry. The digest has to be increasing, so obviously the Millage Rate can be dropped. He has lived here all of his life, his family has lived here all of their lives, but he is considering moving to Calhoun. He could still use Floyd County roads, stores, etc. Is that what we are looking for in Floyd County? Do we want to run everyone off? We have tons of new industry in town, but they won't be paying taxes for five to fifteen years. He noted that two people out of a county of over 100,000 people had come to complain at tonight's meeting. Obviously it was a waste of the Board's time and their time.

Mr. Smith noted that C & S Construction has been on Bells Ferry Road putting in sewer systems for a private individual and cut across the road. They finally paved the road that took almost two years of gravel, busted windshields, and busted tires from running off the side of the road in loose gravel. Now C & S Construction has cut a hole in the road, now he has a bump on the brand new road that had been put in. He had called Rodger Swaim a month ago and got no returned call. He called him again and Mr. Swaim left a message for him at work stating "your hump is going to be fixed, I have a County Work Order on it". That is what we need, the County to spend more of his tax money to fix a road that a company from Atlanta dug up. Mr. Smith stated with industry like Pirelli it should wipe out the tax rolls when they move in here. He asked how long they are abated for when they move in. Acting County Manager Tully replied that it is a ten-year package, but they are paying school taxes from day one. He asked if he needed to open up a pop stand to get an abatement. It is not fair, other counties rely on the industries to pay the taxes, but in Floyd County it has always been laid on the homeowners and it continues to stay that way. The Millage Rate goes down, checks go up.

Commissioner Fricks stated that if a comparison is done on the last three years of the amount of tax collected for the County M & O, you would see a decrease. Mr. Smith stated that again it has been cut to the bone. Commissioner Fricks replied that he was not saying they had cut it to the bone, but they have made progress in the past three years in terms of reducing operating costs. Mr. Smith stated they may be taking in less money, but each year, his checks to the County get bigger and bigger. Commissioner Fricks stated that it is probably an increase of the assessment. Mr. Smith stated that he had talked with a couple of Commissioners on the phone and they want to throw it off on the Assessors, but again something has to be done about the Assessors.

Commissioner Hufstetler stated that he does not want to throw it off on the Assessors. The best solution is to get our legislators to put on the ballot a freeze for the homeowners. You have a much better chance of that happening than for the State of Georgia to change the whole assessment process. Commissioner Hufstetler stated that this year's increase was about 3%. Some people did not get an increase, others got 10% to 15%. Mr. Smith stated that he has spoken to over 100 people and everybody got an increase. Commissioner Hufstetler stated that the tax base is not just homeowners, it is also businesses and we are bound by State law. Mr. Smith stated this was all a waste of time. The Commission says it's the Assessors' problem and it is easy for the Commission to adjust the Millage rate. Commissioner Fricks asked Mr. Smith what he would recommend the Commission do? Mr. Smith asked who appointed the Board of Assessors and how do they get off the Board. Commissioner Fricks reminded Mr. Smith that the Commission did call for an investigation last year and tried to have one of the members removed. Again, the State overruled the Commission. Mr. Smith indicated that Bill McWhorter reiterated to him that this was the law. Mr. Smith stated he felt there was no recourse.

Chairman Mayes stated that Mr. Smith's time was up and the public hearing would be closed. The Commission thanked Mr. Smith for his concerns. Commissioner Hufstetler made a MOTION to close the public hearing. SECOND by Commissioner Mahanay. VOTING:

YES

NO

Commissioner Hufstetler

“ Fricks

“ Jennings

“ Mahanay

Chairman Mayes

Motion Carried

**MILLAGE RATE RESOLUTION**

Commissioner Hufstetler made a MOTION to adopt the following Millage Rate Resolution:

School Board - 15.707 mills  
M & O - 8.505  
Fire District (unincorporated) 1.580  
Solid Waste .858  
State Millage Rate .25

SECOND by Commissioner Jennings. VOTING:

YES NO

Commissioner Hufstetler  
" Fricks  
" Jennings  
" Mahanay  
Chairman Mayes

Motion Carried

**SECOND READING /PUBLIC HEARING**

**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)  
(FIRST READING WAS HELD ON AUGUST 14<sup>th</sup> AT 2:00 P.M.)**

Assistant County Manager Tom Tully presented information provided from the Planning Commission showing the proposed cell tower site. Commissioner Mahanay questioned how close the house would be to the tower site. Commissioner Jennings stated there were some towers already located on Booze Mountain Road, Industrial Park, etc. Tom Tully stated there was also one at the Industrial Park at Six-Mile.

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

YES NO

Commissioner Hufstetler  
" Fricks  
" Jennings  
" Mahanay  
Chairman Mayes

## Motion Carried

Chairman Mayes stated the Public Hearing was open.

**Bill Whelan, Site Acquisition Consultant presenting Nextel Communications** presented an application for the construction of a 250 ft. lattice tower they are proposing to locate off Booger Hollow Road. Nextel Communications is an enhanced specialized mobile radio carrier and is licensed by the FCC to operate in Floyd County. He stated that the Planning Commission has recommended denying their application and as of yet Nextel has not been able to ascertain the reasoning behind the denial even though they had called the Planning Commission numerous times. He stated that Nextel was left to assume the denial was because of residents' concerns over aesthetics and health effects, among other things. With regard to health effects, the Telecom Act Of 1996 is pretty explicit as to the denial of

these type things and as long as Nextel is within FCC guidelines, which they are, this would not be a valid reason for the denial of this application. The Telecom Act is also explicit in case of a denial such as this that it would need to be in writing and based on substantial evidence. Mr. Whelan pointed out that, with respect to aesthetics, himself and any of the carriers that he works for, especially Nextel, depend heavily upon Zoning Boards, Planning Commissions and Commissions to give direction in cases where a new tower needed to be erected. He indicated that the Zoning Ordinance was clear on this and he presumed that when the ordinance was drafted there was discussion regarding allowing residential uses and uses such as Nextel's in the same zone, and that somebody may, at some point, have to look at a tower as is the case here. He noted that the County provided Nextel with the Zoning Ordinance, they followed it to the letter and in spirit. He stated that the question comes down to who looks at a tower and who doesn't. He reiterated that Nextel had met all the conditions for this application.

Assistant County Manager Tom Tully asked Mr. Whelan if Nextel was provided with a copy of our Communication Tower Ordinance and that this particular ordinance stands alone from the Zoning Ordinance. Mr. Whelan indicated they had received a copy of the Communication Tower Ordinance.

Commissioner Jennings asked Mr. Whelan if Nextel had attempted to co-locate. Mr. Whelan replied they had, and the closest tower to Nextel is on Miller Mountain Road. Mr. Whelan explained that they had brought a coverage plot along with them to show they had looked at the tower on Miller Mountain Road but technically it would not work for them. The RF individuals, the people who actually evaluate with respect to the RF radio frequency, decided that this tower would not be effective.

Commissioner Mahanay asked what substantial evidence did Nextel have showing this tower is needed. Mr. Whelan provided coverage maps, site drawings (to show they are in accordance with the Communication Tower Ordinance). He stated that Amy Stokel, project analyst, submitted several proposals to residents in that area and will show the Board several properties that they looked at and why they opted to go with Mr. Ingram's property. Amy presented an exhibit of proposals showing that she had contacted several resident's in the area and because of loss in elevation, not being able to meet setback requirements, etc. the proposed site was chosen. Mr. Whelan stated that he hoped the Commission would evaluate Nextel based on their careful study of this project. (at this point Mr. Whelan made a presentation to the Commission).

There was considerable discussion and concerns from the Commission regarding this project. They included:

-  How far will the tower be from the house
-  Instead of gaining more coverage are they just filling a small void
-  Questions regarding the map presented showing the Booze Mtn. Road tower incorrectly

-  Night lighting on the tower
-  The search was isolated to a three mile area
-  Co-locating on another tower

Commissioner Mahanay asked if Nextel could co-locate or share with another tower. Daniel, the RF Design Engineer for Nextel stated that it would not provide reliable coverage. Assistant County Manager Tully stated that the Commission has not been presented any evidence that supports that fact.

County Attorney Wade Hoyt asked if Nextel could support that statement.

The Nextel Engineer explained that when they place the cell tower sites they try and keep the RF energy overlap to a minimum because it affects a lot of the reliability. When you look at the amount of coverage it provides when you get that overlap, that overlap provides crosstalk or interference between channels, the spectrum that Nextel has is sharing in some areas with ambulance, radio and power companies that have enhanced mobilized radio bands and what that does is that it creates some difficulties with frequency planning. When you frequency plan that network if you have a lot of overlap you have to sacrifice some of the reliability. Based on guidelines that the FCC has set forth when the cell tower site was designed it's not only an amount of area coverage, but it is also a reliability issue. When you look at the other co-locators we get more overlap than we do with placing a tower where we are looking at placing it now. You will always get some overlap otherwise you are not providing the seamless coverage that the FCC requires.

Chairman Mayes asked how the overlap affects reliability.

The Nextel engineer presented this scenario to the Commission – when that overlap is placed into the network, let's say, you had 850 mgH and Nextel's channels are divided up in 25 mgH channels. Right now Nextel has approximately a dozen sites covering the Rome area. If you have 850 mgH and with the frequency planners at Nextel they set aside the frequencies that are used in that area, the lower band of their spectrum is divided up and is shared equally in 25 mgH chunks with companies like Southern Company, Georgia Power (they also have these same band of frequencies) so they have to do a lot of coordination with them in order to provide the frequency planning. What happens is Nextel may only have 425 mgH channels

and calculate the distances of separation between those towers before you can reuse the same frequencies.

When you have those large amounts of overlap it decreases your reuse factor which decreases the amount of frequencies we have in the area to use. We want to try and keep those to a minimum thus keeping our frequency reuse factor as high as possible.

Assistant County Manager Tom Tully stated that what he was hearing was in conflict with the County's Ordinance, which is an overall goal of reduction of towers. He said he understood Nextel to be saying that because of their frequency problems they can't have that overlap so they would propose to construct another tower. Mr. Tully said, that if we were to follow their logic, county wide it would mean that we would actually end up with more towers than what we've got now because they want each individual area to have it's own individual tower.

Once again the Nextel engineer explained that from a Nextel prospective each individual area is going to have its own tower but each of the cell phone companies i.e., Verizon, Cingular, Nextel, AT&T, is granted a license from the FCC. Once they grant that license you are granted what is called a spectrum allocation and with that allocation you are given a band of frequencies. The band of frequencies that Nextel has to use is predominately the 800 mgH band and, for example, Verizon has the 900 mgH band. So from a Verizon network prospective each individual tower is going to have their own section as well as Nextel and

it's network independent between companies. So a BellSouth, Verizon, or Cingular RF Engineer and land acquisition company could come in and co-locate on that tower depending on where their network is.

Assistant County Manager Tully stated but they are already co-located on those other towers that you are saying you can't co-locate on.

The Engineer stated that Mr. Tully was correct, and that goes back to the limitations that the FCC has placed on them that Nextel has no control over. In order to get a license to operate in this band you need to provide reliable and seamless coverage and in order to do that from Nextel's prospective they have to locate their tower in the best possible geographical area to minimize overlap for frequency reuse as well as provide seamless coverage.

Mr. Tully asked if Nextel would have to design their system and engineer it so that they could make use of existing facilities.

The Engineer replied that they did look at the existing towers in the area. Outside of the two sites that were presented, Booze Mtn. and Miller Mtn. they provide a larger amount of overlap thus frequency reuse thus minimizing the reliability of their network. Based on the FCC guidelines they have to go with the best possible site. He stated that Nextel tried to co-locate on these sites but we were just unable to do so based on the guidelines that the FCC puts on them.

County Attorney Hoyt asked if Nextel is not allowed to locate on this particular site will they lose coverage in the area or just quality. The Engineer replied they would lose coverage. Assistant County Manager Tully stated there was a conflict with the evidence that the Engineer had just given the Commission. Tully stated that he understood the actual area of coverage is increased by co-locating on existing towers and not using this new tower. The Engineer stated that the area of overlap is larger, not the area of coverage. Tully asked if the overall area of coverage is larger by co-locating than constructing a new tower. The Engineer replied no. Tully again stated that this was in conflict with the evidence that he had just given the Commission. The Engineer replied that the maps they presented are made independent of other people's coverage because that information is privy and Nextel does not have access to it.

County Attorney Wade Hoyt asked the engineer if Nextel had an FCC regulation somewhere that he had not seen that stated if Nextel had a choice between two sites that you've got to pick the site that gives you the best quality or is that a decision that Nextel is making. The engineer stated that he did not know.

Commissioner Mahanay asked Wade to research the information.

County Attorney Hoyt stated if there is such a regulation then the Commission's decision might be different if there was not such a regulation. He indicated that if there is such a regulation that says Nextel has to make that decision based on quality, and if they have two fairly equal sites, and it says they have to pick the site that gives them the best quality then the Commission would not have as much leeway. But if there is no

FCC regulation and as long as Nextel has coverage and it is Nextel's decision to have better quality then the Commission would have some leeway.

Mr. Whelan reminded the Commission, once again, that what is in writing is what it comes down to. He stated that Nextel went by the Zoning Ordinance, and is in line with every condition of the Zoning Ordinance for the location of the tower.

Chairman Mayes asked if there was anyone present in opposition to the construction of the cell tower. He told Mr. Whelan that he would have time to present his rebuttal after they spoke. There were four people speaking in opposition to the proposed cell tower site.

**Shirley Barton, 1828 Thomas Road, Canton, Georgia**, spoke regarding her mother who lives at 733 Booger Hollow Road. She stated that her mother has been a resident there for 55 years and one of the things that they are upset about is that she has finally gotten to her golden years of retirement and now she will be outside working in her yard looking at a cell tower. The cell tower will be located directly across the street from her. She expressed concern for her mother's health. She asked the Commission to consider one of their parents that had lived in one location for 55 years and all of a sudden their total life is going to be changed because of one little cell tower.

**Lillie Casteel, 215 Rolling Pine Road**, was also present representing her mother who lives at 733 Booger Hollow Road. She stated that her biggest concerns are about health subjects, depreciation of the property and the construction of a cell tower in such a populated area.

**Gail Baxter, 150 Lumpkin Road**, stated that she lives up the mountain from the proposed site. She said she would be able to see the tower from her front porch. She expressed concerns regarding the flashing strobe light, depreciation of property and the health of the livestock she has on the property.

**Hilda Ingram, 733 Booger Hollow Road**, stated that she lives directly in front of where the cell tower will be. She has worked for 31 years and is now retired and likes to get out and work in her yard.

There was no one else to speak in opposition of the proposed cell tower construction.

At this time Mr. Whelan stated his rebuttal and reiterated to the Commission that Nextel had met all the conditions regarding the construction of this tower.

Commissioner Jennings told Mr. Whelan that there was a rock quarry located directly across the mountain from the proposed cell tower site and asked if Nextel thought about what the effects of blasting would be. Mr. Whelan replied that Nextel had actually constructed towers within rock quarries and the tower would be built to applicable codes.

Commissioner Hufstetler made a MOTION to close the public hearing. SECOND by Commissioner Fricks. VOTING:

YES NO

Commissioner Hufstetler  
" Fricks  
" Jennings  
" Mahanay  
Chairman Mayes

Motion Carried

No action was taken at this time regarding the approval of the cell tower construction.

**VARIANCE**  
**FILE #016-01, 15 ROCK CREEK ROAD.**

Assistant County Manager Tom Tully presented File #016-01V, the request for a variance by Robert Burket, 15 Rock Creek Road. He stated that in the Unified Land Development Code, Article 4.2.2.a, defines a garage as an accessory unit and you have to have a principal dwelling, which is a house, to a garage.

Chairman Mayes asked if the garage would be used as a commercial building. Mr. Tully replied no but Mr. Burket needed the variance because he was constructing the garage prior to constructing his house.

Commissioner Hufstetler made a MOTION to open the public hearing. SECOND by Commissioner Mahanay. VOTING:

YES NO

Commissioner Hufstetler  
" Fricks  
" Jennings  
" Mahanay  
Chairman Mayes

Motion Carried

**Dorothy Seay** spoke representing Mr. Burket. She stated that she had sold Mr. Burket the property and that she lives in the house on the corner. She also advised the Commission that the neighbors on the street expressed no opposition to Mr. Burket's request.

Commissioner Hufstetler made a MOTION to close the public hearing. SECOND by Commissioner Fricks. VOTING:

YES NO

Commissioner Hufstetler  
“ Fricks  
“ Jennings  
“ Mahanay  
Chairman Mayes

Motion Carried

Commissioner Hufstetler made a MOTION to approve the variance. SECOND by Commissioner Fricks. VOTING:

YES

NO

Commissioner Hufstetler

“ Fricks

“ Jennings

“ Mahanay

Chairman Mayes

Motion Carried

## CHAIRMAN'S REPORT

### APPOINTMENTS.

Chairman Mayes presented his report regarding appointments.

#### P Airport Commission

Commissioner Jennings made a MOTION to appoint Wayne Vick to Post 1 (replacing Earl Tillman) of the Airport Commission. SECOND by Commissioner Mahanay. VOTING:

YES

NO

Commissioner Hufstetler

“ Fricks

“ Jennings

“ Mahanay

Chairman Mayes

Motion Carried

#### § Forum Advisory Committee

Commissioner Jennings made a MOTION to re-appoint Ray Miles and Carol Willis to another term on the Forum Advisory Committee. SECOND by Commissioner Hufstetler. VOTING:

YES

NO

Commissioner Hufstetler

“ Fricks

“ Jennings

“ Mahanay

Chairman Mayes

Motion Carried

§ Floyd County Department of Family and Children Services

Commissioner Jennings made a MOTION to appoint Debbie Burnett to the Floyd County Department of Family and Children Services. SECOND by Commissioner Hufstetler. VOTING:

YES

NO

Commissioner Hufstetler  
“ Fricks  
“ Jennings  
“ Mahanay  
Chairman Mayes

Motion Carried

**COMMISSIONER’S REPORT**

**ADMINISTRATIVE/FINANCE COMMITTEE**

Commissioner Hufstetler made a MOTION to approve a request for overtime pay, not to exceed \$3,000, or MIS employee work done in preparing the Solid Waste Tax District. SECOND by Commissioner Mahanay. VOTING:

YES

NO

Commissioner Hufstetler  
“ Fricks  
“ Jennings  
“ Mahanay  
Chairman Mayes

Motion Carried

**PUBLIC SAFETY COMMITTEE**

Commissioner Mahanay announced that the next Public Safety Committee meeting will be held on Wednesday, Sept. 12<sup>th</sup> at 2:00 p.m.

**PUBLIC WORKS COMMITTEE**

**No report.**

**WATER COMMITTEE**

No report.

**CLERK’S REPORT**

**CONSENT AGENDA.**

County Clerk Michele Fountain stated there were three items on the Consent Agenda which she submitted for approval. Commissioner Hufstetler made a MOTION to approve the Consent Agenda. SECOND by Commissioner Fricks. VOTING:

YES

NO

Commissioner Hufstetler

“ Fricks

“ Jennings

“ Mahanay

Chairman Mayes

Motion Carried

1. Tax Refunds:

- a. David R. Quinn, 5 Ellison St., \$669.35
- b. Louise H. Richardson, 19 Frnklin St., NW, \$83.80
- c. Seed Services, Inc., 27 Westlyn Dr., \$35.18
- d. Mrs. John Brock, 714 East 19<sup>th</sup> St., \$13.25
- e. J. Lewis & betty Brewer Puckett, 2 LaPorte St., \$45.76
- f. Kathryn Shepherd, 3148 Chulio Road, \$72.49
- g. Donald D. West, 4 Villamar St., NW, \$331.15
- h. Robert A & Kristin M Williams, 8 Oak Hill Lane, \$102.73
- i. Byron K. Youngblod, 66 Jackson Chapel Rd., SW, Cave spring, \$25.07
- j. Allen & Joe Louis Shropshire/Pharies Jr & Helen Littlejohn, 214 Shropshire Rd., SW, \$30.40
- k. Joseph C & Joan S Gittings, 15 Wilson Dr., \$32.41
- l. William Carlton & Brenda D Crider, 3033 Maple Rd., Lindale, \$254.86
- m. Bobby G Payne/Trustee Fannie Lou Payne, 105 Whispering Oaks Lane, NW, \$74.59
- n. Doris P. Nephew, 76 Evergreen Lane, Apt. 23, Cedartown, \$59.43
- o. Pamela K. Smith, P. O. Box 626, Silver Creek, \$174.81
- p. Steve Dunn % Charles Tumblin, P. O. Box 6162, \$162.47
- q. Roger S. & Crystal P. Davis, 1445 Davis Rd., Silver Creek, \$111.80
- r. Paul Hutchins % James C. Hutchins, 912 Bethel Road, Silver Creek, \$52.84
- s. C. A. Shirley M. Morgan, 13 Dover Dr., \$138.75
- t. James S. Sullins, 71 Lloyd Circle, Aragon, \$164.90
- u. Howard H. Alexander & Larry Hansard, 900 North 2<sup>nd</sup> Ave., \$40.89
- v. Glenn L. Rosser, 2053 Buttermilk Rd., SW, Cave Spring, \$66.94
- w. Paul & Dorothy Robinson, 419 Edgewood Ave., \$2.81
- x. Mildred S. Langham % Sugar Land Farm, 134 Wayside Rd., NE, \$198.74
- y. Hans & Mary L. Rogers, 12 River Pine Dr., \$1,456.59
- z. Paul T & Lois E Roberts, Sr., 47 Donley Dr., \$141.24
- aa. William E. & Vivian Hodges, 157 Melson Rd., SW, \$555.12
- bb. W. Shaw Aycock/Beatrice Pierce, 2679 Floyd Springs Rd., Armuchee, \$10.83
- cc. Remola A. Green, 44 Lakeview Dr., SE, Lindale, \$293.49
- dd. Mrs. J. Helen Sanford, 17 Wellington Way, SE, \$5.21
- ee. Raju & Hasmukh V. Patel %Royal Inn, 1201 Martha Berry Blvd., \$141.61
- ff. Mildred W. Bagley/Janis B. Mull, 3822 Horseleg Creek Rd., \$21.01
- gg. James B. & Jerry J. Waters, 318 5<sup>th</sup> Ave., \$116.75
- hh. Franklin E. & Ann B. Higgins, 23 Westwood Circle, \$11.72
- ii. Alfred & Pearl Shropshire, 214 Shropshire Rd., SW, \$107.68
- jj. Bonnie Jean Powell, 12 Walker Heights Rd., Lindale, \$25.43
- kk. R. L. & Sylvia Ozment, 1113 Turner Bend Rd., SW, \$27.55

ll. Coosa Valley Livestock Company, 50 Wellington Rd., SE, \$68.22  
 mm. Ralph H. Sanford %Christy White, 2510 Maple Rd., \$172.00  
 nn. Donale Poindexter, 43 Berkshire Dr., \$58.81  
 oo. B. J. & Carolyn Carver, 307 Clark Dr., \$36.05  
 pp. Mamie Copeland/Carolyn Carver, 518 LaPorte St., \$1.12  
 qq. George Aaron & Carolyn A. Bolden, 27 Conway Place, \$37.57  
 rr. Louise Ellenburg Jackson, 532 Perry Farm Rd., SW, Cave Spring, \$439.54  
 ss. Storey Lands, Inc., P. O. Box 99, Armuchee, \$95.28  
 tt. Richard L. Muller, Jr., DDSPC, 1436 Floyd Springs Rd., NE, Armuchee, \$126.27  
 uu. Hudon Miller, 1436 Floyd Springs Rd., NE, Armuchee, \$21.38  
 vv. Howard Alexander, Jr. 900 N. 2<sup>nd</sup> Ave., \$3.20  
 ww. Philip Leu Mullins, P. O. box 473, Silver Creek, \$61.88  
 xx. Curtis H. & Erna L. Dobbs, 184 Chubb Rd., Lindale, \$1,098.94  
 yy. Denver & flenda Culpepper %Danny & Sandra Bratcher, 12 VanTassel Dr., Lindale, \$11.76  
 zz. Henry J. & Margaret Jones, Jr., 284 Randall Rd., SW, Cave Spring, \$44.20  
 aaa. Larry D. Bryant, 3 Dougherty St., \$35.44  
 bbb. Shamrock Convention Center, Inc. %Holiday Inn, Highway 411 East, \$1,143.91  
 ccc. Tommy J. & Carolyn L. Rogers, 1821 Huffaker Rd., NW, \$91.66  
 ddd. Jeffrey C. Cordle, 4993 Big Texas Valley Rd., \$9.43  
 eee. James W. Cannon, 32 Old Airport Rd., \$59.27  
 fff. Atlanta Gas Light/Anthony D. Solomon, Location 1150, P. O. Box 4569, Atlanta, \$2,401.88  
 ggg. Lynn A & Catherine F Busby, 220 Burnett Ferry Rd., SW, \$36.11  
 hhh. Doris A. McClanahan, 1085 Radio Springs Rd., SW, \$248.48  
 iii. R. G. Brookshire, 3131 Rockmart Highway SE, \$23.45  
 jji. Robert Wayne Ayer, 1527 Morrison Campground, \$3.56  
 kkk. First Union National Bank/Trustee Et Al, P. O. Box 40062, Jacksonville, FL, \$1,375.17  
 III. Wilma Givins & Mary A. Herdon & Julia Jenkins, 3980 Horseleg Creek Rd., SW, \$915.04  
 mmm. Grady & Thelma Mithcell, 19 Wingfield St., \$5.07  
 nnn. Charles R. & Shirley T. Boyles, 111 Rollingwood Cr., \$616.29  
 ooo. William Gunn & Jessica Rose, 14 Devonshire Dr., \$85.93  
 ppp. James Carlton & Lynn D. Peek, 4062 New Calhoun Hwy, NE, \$76.45  
 qq. Jesse D. & Sara M. Tolbert, 3768 Alabama Hwy, NW, \$127.51  
 rrr. George Randall McGill, 140 Scoggin Rd., \$183.04  
 sss. Linda D. Hatcher, P. O. Box 5721, \$2.44  
 ttt. Carl G. Momon, 72 Oreburg Rd., SW, \$100.17  
 uuu. Dewey Myers, Jr., 125 Leonard Dr., Lexington, SC \$75.00  
 vvv. Juanita M. Case, P. O. Box 1602, \$24.41  
 www. Harry M. Yarbrough, 381 Haywood Valley Rd., NE, Armuchee, \$72.17  
 xxx. Harold C. & Virginia Cantrell, 1570 Cunningham Rd., SW, \$8.46  
 yyy. Richard & Margaret Ingram, 106 Deerbrook Dr., \$13.41  
 zzz. David & Susan Jones, 888 Floyd Springs Rd., Armuchee, \$103.80  
 aaaa. Chares Dee Keown, 1316 Broad St., \$46.54  
 bbbb. Holland P. & Jewell B. Jay, 4 Sagewood Dr., NW, \$3.88  
 cccc. Mary Dee Keown, 316 Broad St., \$197.84  
 dddd. Pearline Smith %Stephen Harrison, 176 Bellmont Dr., \$33.04  
 eeee. Paul & Marh Schriever, 5 Bray Road, \$37.51  
 ffff. Robert C. Morrison, P. O. Box 441, \$29.20  
 gggg. William R. Warley & D'Ann Downer, 517 Charlton St., \$149.57

2. Approval of application and acceptance of Purchase of Service Grant from Council of Juvenile Court Judges in the amount of \$24,710. (CN-0213)

3. Enter into Minutes Letter of Intent with Southern Company.

### **MANAGER'S REPORT**

#### **DISCUSS REQUEST FROM SHERIFF TO CREATE TWO (2) NEW WARRANT CLERK POSITIONS (PAYGRADE 107) AT THE JAIL. (DEFERRED FROM AUGUST 14<sup>TH</sup> MEETING).**

Assistant County Manager Tom Tully requested approval of one (1) new warrant clerk position. at the Floyd County Jail. Commissioner Hufstetler made a MOTION to approve the position. SECOND by Commissioner Fricks. VOTING:

YES NO

Commissioner Hufstetler  
" Fricks  
" Jennings  
" Mahanay  
Chairman Mayes

Motion Carried

#### **FILE SYSTEM FOR CLERK OF SUPERIOR COURT.**

Assistant County Manager Tom Tully recommended approval of a Spacesaver file system in the amount of \$12,297 for the office of Clerk of Superior Court. Commissioner Jennings made a MOTION to

approve the purchase. SECOND by Commissioner Fricks. VOTING:

YES NO

Commissioner Hufstetler  
" Fricks  
" Jennings  
" Mahanay  
Chairman Mayes

Motion Carried

**APPROVE CHANGE ORDER #1  
FOR MAYES, SUDDERTH &  
ETHEREDGE ON AIRPORT  
APRON EXPANSION/TAXIWAY  
PROJECT.**

Assistant County Manager Tom Tully presented to the Commission approval of Change order #1 for Mayes, Sudderth & Etheredge on the Airport Apron Expansion/Taxiway project. The County's share of the project will be approximately \$700. Commissioner Mahanay made a MOTION to approve the request. SECOND by Commissioner Hufstetler. VOTING:

YES

NO

Commissioner Hufstetler  
" Fricks  
" Jennings  
" Mahanay  
Chairman Mayes

Motion Carried

**(4/5 VOTE)  
APPROVE BUDGET AMENDMENT  
FOR TAX ASSESSOR & REJECT BIDS  
FOR PEDESTRIAN FOOTBRIDGE**

Assistant County Manager Tom Tully presented two items that require a 4/5 vote to be added to the agenda. Commissioner Hufstetler made a MOTION to add the items onto the agenda. SECOND by Commissioner Fricks. VOTING:

YES

NO

Commissioner Hufstetler  
" Fricks  
" Jennings  
" Mahanay  
Chairman Mayes

Motion Carried

Assistant County Manager Tom Tully recommended a budget amendment request in the amount of \$25,000 from the Tax Assessor's office for costs related to auditing personal property accounts for 2001. Commissioner Jennings made a MOTION to approve the budget amendment. SECOND by Commissioner Hufstetler. VOTING:

YES

NO

Commissioner Hufstetler  
" Fricks  
" Jennings

“ Mahanay  
Chairman Mayes

Motion Carried

Assistant County Manager Tom Tully made a recommendation to formally reject bids for the construction of a Pedestrian Footbridge. Two bids were received, one from C.W. Matthews in the amount of \$2,180,061 and another from Scott Bridge Co. in the amount of \$2,250,469. Both were substantially higher than the budgeted price. He stated that the project will be rebid. Commissioner Hufstetler made a MOTION to reject the bids. SECOND by Commission Mahanay. VOTING:

YES

NO

Commissioner Hufstetler  
“ Fricks  
“ Jennings  
“ Mahanay  
Chairman Mayes

Motion Carried

#### ATTORNEY’S REPORT

No report.

#### ADJOURNMENT:

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

NO

YES

Commissioner Hufstetler  
“ Fricks  
“ Jennings  
“ Mahanay  
Chairman Mayes

Motion Carried

COMMISSIONERS

FLOYD COUNTY BOARD OF

JOHN MAYES, CHAIRMAN

