

July 23, 2002

REGULAR MEETING
FLOYD COUNTY BOARD OF COMMISSIONERS
July 23, 2002 **6:00 P.M.**

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

OTHERS

PRESENT: County Manager Kevin Poe, County Attorney Wade Hoyt, County Clerk Michele Fountain, and Assistant County Manager Sammy Rich.

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

INVOCATION: Commissioner Mayes led the Invocation.

PLEDGE OF

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

PUBLIC PARTICIPATION

Les Jeske, Cumberland Trail, stated that he had spoken to the Board in 2000 and had received a letter from county management. He had also spoken at a meeting last year and he was under the impression that last year a conclusion had been reached. He had been promised that something would be done. He thinks that sufficient time has gone by and nothing has happened. He called the County Manager a few weeks ago and talked with Kevin Poe, who denied everything. He asked what his standing is and what can be done. The issue is that the drainage has been made in an area where it was not designed previously. It is in the middle of the property and devalues the property as far as the ability to build on it. He thinks that besides, the road has already been paved and now would probably have to be dug up to put in a different drainage. Previously, the lowest point for the drainage was at the end of the property, probably about 50 feet on the side, and that would solve any problems now, and in the future. He presented pictures of the area, showing what the drainage does when it is raining. Mr. Jeske offered to answer any questions.

Commissioner Jennings asked if the property in question is county property. Mr. Jeske replied that it is next to Floyd College on Booze Mountain Road, Cumberland Trail Subdivision. He stated that he has lived there for 18 years and the issue was not a problem as long as there was not as much development. Commissioner Jennings again asked if the problem is on county or private property. Mr. Jeske stated that the drainage under the street is what creates the problem on his property. Chairman Fricks noted that the drainage has not been changed in the time Mr. Jeske has lived there. Mr. Jeske stated that when he purchased the property, the plan on the county map was at a different location than it is now. Chairman Fricks stated that he was referring to when the

subdivision was built. Mr. Jeske stated that the drainage had been rebuilt about 3 or 4 years ago and they had just put in new headwalls on each side of the 24 inch pipe. The 24-inch makes a big difference, because now the water is pouring. Chairman Fricks noted that when Mr. Jeske had attended a Public Works Committee meeting, he had been Chairman of the Committee and he had visited the site. One of the issues was additional curbing to prevent water from coming over the existing curbing. Mr. Jeske stated that the curbing is not helping, it is on the lower side. The curbing also prevents him from cutting the grass next to the road since he cannot get access between bushes and the street. Mr. Jeske stated that the issue is not the water going over the road. Chairman Fricks noted that Public Works had worked on the area.

Chairman Fricks stated that Commissioner John Mayes is in charge of Public Works and the pictures will be given to him for review. Commissioner Mayes stated that he will contact Mr. Jeske.

PROCLAMATION

NATIONAL KIDS DAY, AUGUST 4, 2002.

Commissioner Jennings presented the Proclamation to Kristen Posey of the Boys & Girls Club and Amy Patterson from the YMCA. Commissioner Jennings expressed his appreciation to them for accepting the Proclamation. He noted that he serves on the Board of the Boys & Girls Club and also enjoying his activities at the YMCA.

APPROVAL OF MINUTES

Motion was made by Commissioner Mahanay to approve the minutes of the meeting held July 9, 2002. SECOND by Commissioner Mayes. VOTING:

YES

NO

Commissioner Hufstetler

" Jennings

" Mahanay

" Mayes

Chairman Fricks

Motion Carried

FIRST READING

**(SECOND READING/PUBLIC HEARING
TO BE HELD AUGUST 13, 2002 AT 2:00 P.M.)**

Chairman Fricks stated that the following items are placed on First Reading.

**FILE #38-2002Z, ALABAMA HIGHWAY,
TAX MAP 750, AREA 00, PARCEL 70.
REQUESTS REZONING FROM S-R
(SUBURBAN RESIDENTIAL) TO D-R
(DUPLEX RESIDENTIAL) FOR
CONSTRUCTION OF DUPLEXES.
(PLANNING COMMISSION RECOMMENDATION:
DENIAL [VOTE – UNANIMOUS])**

**FILE #42-2002Z, CEDAR VILLAGE, CONN
LAKE ROAD, TAX MAP 388A, AREA 02,
PARCEL 001. REQUESTS REZONING FROM
S-R (SUBURBAN RESIDENTIAL) TO D-R
(DUPLEX RESIDENTIAL) FOR CONSTRUCTION
OF A DUPLEX.
(PLANNING COMMISSION RECOMMENDATION:
APPROVAL [VOTE – 6-2])**

**FILE #47-2002Z, BUTTERMILK ROAD, CAVE
SPRING, TAX MAP 828, AREA 00, PARCEL
011E. REQUESTS REZONING FROM S-R
(SUBURBAN RESIDENTIAL) TO A-R
(AGRICULTURAL RESIDENTIAL) TO
ACCOMMODATE THE EXISTING USE.
(PLANNING COMMISSION RECOMMENDATION:
APPROVAL [VOTE – UNANIMOUS])**

**FILE #50-2002Z, SIKE STOREY ROAD AT
HIGHWAY 27 NORTH, TAX MAP 644-00-015,
015A, 013, 018, AND 020. REQUESTS REZONING
FROM L-I (LIGHT INDUSTRIAL) TO H-I
(HEAVY INDUSTRIAL) TO ACCOMMODATE
THE EXISTING USE.
(PLANNING COMMISSION RECOMMENDATION:
APPROVAL [VOTE – UNANIMOUS])**

**FILE #51-2002Z, KINGSTON HIGHWAY AT
VETERAN'S MEMORIAL HIGHWAY, TAX MAP
116-0-101. REQUESTS REZONING FROM O-I
(OFFICE-INSTITUTIONAL) TO S-R (SUBURBAN
RESIDENTIAL) FOR AN EXISTING SINGLE-**

**FAMILY DWELLING.
(PLANNING COMMISSION RECOMMENDATION:
APPROVAL [VOTE – UNANIMOUS])**

**FILE #53-2002Z, 4773 AND 4779 CEDARTOWN ROAD,
SE, TAX MAP 582-00-021 AND 022B. REQUESTS
REZONING FROM A-R (AGRICULTURAL RESIDENTIAL)
TO D-R (DUPLEX RESIDENTIAL) TO ACCOMMODATE
ONE EXISTING DUPLEX AND PERMIT CONSTRUCTION
OF ONE ADDITIONAL DUPLEX.
(PLANNING COMMISSION RECOMMENDATION:
APPROVAL [VOTE – UNANIMOUS])**

**FILE #58-2002Z, BOOGER HOLLOW ROAD, TAX
MAP 597-00-022G. REQUESTS REZONING FROM
L-I (LIGHT INDUSTRIAL) TO A-R (AGRICULTURAL
RESIDENTIAL) TO ACCOMMODATE THE EXISTING
USE.
(PLANNING COMMISSION RECOMMENDATION:
APPROVAL [VOTE – UNANIMOUS])**

**FILE #59-2002Z, BUTTERMILK ROAD, TAX MAP
828-0-27. REQUESTS REZONING FROM S-R
(SUBURBAN RESIDENTIAL) TO A-R (AGRICULTURAL
RESIDENTIAL) TO ACCOMMODATE THE EXISTING USE.
(PLANNING COMMISSION RECOMMENDATION:
APPROVAL [VOTE – UNANIMOUS])**

**FILE #56-2002Z, KINGSTON ROAD, TAX MAP 116-00-10A.
REQUESTS REZONING FROM H-C (HEAVY COMMERCIAL)
TO S-R (SUBURBAN RESIDENTIAL) TO ACCOMMODATE
THE EXISTING USE.
(PLANNING COMMISSION RECOMMENDATION:
APPROVAL [VOTE – UNANIMOUS])**

**FILE #57-2002Z, STATE HIGHWAY 101 AT
PLEASANT VALLEY, TAX MAP 236-00-009J.
REQUESTS REZONING FROM A-R
(AGRICULTURAL RESIDENTIAL) TO H-C
(HEAVY COMMERCIAL) FOR CONSTRUCTION
OF MINI-WAREHOUSES.
(PLANNING COMMISSION RECOMMENDATION:
DENY [VOTE – UNANIMOUS])**

SECOND READING/PUBLIC HEARING

**FILE #30-2002Z, NANLEE DRIVE, TAX MAP
476, AREA 01, PARCEL 2A (TRACT B).
REQUESTS REZONING FROM S-R
(SUBURBAN RESIDENTIAL) TO D-R
(DUPLEX RESIDENTIAL) FOR CONSTRUCTION
OF DUPLEXES.
(PLANNING COMMISSION RECOMMENDATION:
APPROVAL [VOTE – 8-2])
(FIRST READING HELD JULY 9, 2002 AT 2:00 P.M.)**

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

YES NO

Commissioner Hufstetler
" Jennings
" Mahanay
" Mayes
Chairman Fricks

Motion Carried

Sue Hiller, Planning Commission, stated that this is a property located off of Nanlee Drive. Nanlee Drive is a subdivision that was created on paper, but never recorded, a number of years ago. She noted the property on the map and stated that to the north it is zoned D-R and is also developed with duplexes to the north and to the west. To the south is a church and the highway and to the east are single family residences. The request by Mr. Ozment, the applicant, is to allow him to put additional duplexes on the piece of land. He has, in the meantime, revised his subdivision and had it approved by the Planning Commission so that it can be recorded. The Planning Commission recommendation was to approve with the dissenting votes based on comments by property owners to the west and north of this property who are concerned about drainage issues. The drainage ditch passes through a portion of the property and may be about where the property line is, between the church and the proposed additional duplexes. The amount of runoff that goes through the ditch is not produced by Mr. Ozment's property, it is produced from other properties. Development of his duplexes, as long as it does not interfere with the ditch, will likely not significantly increase the runoff situation in that ditch, and she believes that accounts for the votes in favor.

Commissioner Jennings stated that, obviously, there is a drainage problem there from the adjacent properties. He asked if there is a plan in place to correct these drainage problems. County Manager Poe replied, "No". Commissioner Jennings asked if a plan needs to be

developed to deal with the drainage problem. County Manager Poe replied, "That will be between the two property owners and it will be up to them to come up with a plan." We would be glad to meet and give them advice, but it is up to them to address the situation. Ms. Hiller noted the direction of the drainage and added that she is not sure that adding these duplexes will increase significantly what is going on now. She stated that it is in Mr. Ozment's best interest to keep the ditch open and running because otherwise there could be a problem. County Manager Poe noted the areas where the drainage is running from. It is running down to the new Beech Creek Subdivision, which is built in a low area towards Beech Creek, so they have drainage issues no matter what is done. He agreed with Ms. Hiller that this property is not causing the drainage problem, but through the years, the development of the subdivision has created additional runoff because there are more impervious areas. Regarding development of the subdivision, a preliminary plat was approved before Storm Water Management Ordinances were in affect, so they were grandfathered under the old ordinance and were not required to have any specific storm water management plan. One solution would be that on a lot in the cul-de-sac, which is not usable, some retainage could be built to help the situation. It was noted that this lot was part of the original subdivision and has recently been shown as divided into lots. John Stewart, County Engineer, has taken the position that since this is part of the original subdivision, it probably would fall into the grandfathering with the rest of the subdivision. County Manager Poe stated that each unit will be developed as individual residences and at this time, individual residences, whether single-family or duplex do not require a storm water management plan. The concerns regarding erosion and sedimentation control have been addressed with Building Inspection. Commissioner Jennings suggested that the county initiate a process of taking a look at the problem and working with the property owners regarding building the pond on the lot mentioned, to help out with the storm-water problem that exists there. County Manager Poe stated that they could try to initiate something such as that. MOTION was made by Commissioner Jennings to close the Public Hearing. SECOND by Commissioner Hufstetler. VOTING:

YES

NO

Commissioner Hufstetler

" Jennings

" Mahanay

" Mayes

Chairman Fricks

Motion Carried

MOTION was made by Commissioner Hufstetler to **approve** the request for rezoning from S-R (Suburban Residential) to D-R (Duplex Residential) for the construction of duplexes. SECOND by Commissioner Jennings. VOTING:

YES

NO

Commissioner Hufstetler

" Jennings

" Mahanay
" Mayes
Chairman Fricks

Motion Carried

ULDC REVISIONS

**REVISE ARTICLE 3.3.2h(1) CONCERNING
THE DESCRIPTION AND CHARACTERISTICS
OF THE C-C (COMMUNITY COMMERCIAL)
DISTRICT.
(PLANNING COMMISSION RECOMMENDATION:
APPROVE [VOTE – UNANIMOUS])
(FIRST READING HELD JULY 9, 2002 AT 2:00 P.M.)**

**REVISE ARTICLE 3.4 (TABLE 3-1) CONCERNING
THE REQUIREMENTS FOR RESIDENTIAL
BUSINESS IN ALL RESIDENTIAL DISTRICTS.
(PLANNING COMMISSION RECOMMENDATION:
APPROVE [VOTE – UNANIMOUS])
(FIRST READING HELD JULY 9, 2002 AT 2:00 P.M.)**

MOTION was made by Commissioner Mahanay to open the Public Hearing on these two items. SECOND by Commissioner Hufstetler. VOTING:

	YES	NO
Commissioner Hufstetler		
" Jennings		
" Mahanay		
Chairman Fricks		

Motion Carried

Chairman Mayes was out of the room at the time the vote was taken.

Sue Hiller, Planning Commission, stated that Article 3.3.2h(1) is a paragraph of text in the ULDC that just generally describes the C-C zoning district. Currently it states that the C-C district is considered appropriate for heavier commercial uses that border on being more light industrial in nature and thus more appropriate for H-C or L-I district. She believes that to be a contradiction, on the table under uses that are allowed for C-C, they are commercial uses, they do not border on Light Industrial or Heavy Commercial. They are essentially asking to change appropriate to inappropriate, and will be correction to what she feels was a typographical error. However, it does change the whole tone of

the C-C zoning district. Commissioner Hufstetler asked if will change the chart that says what can and cannot be done. Ms. Hiller replied that no uses will be changed.

Ms. Hiller stated that on the second ULDC revision, on the table they list residential businesses, which have commonly been called the home occupations in the past. These would be things such as working on a computer from home, so they want a business license, or giving piano lessons at home. They tend to be minor services, artistically related or they are computer related or it can be a case where someone is a distributor for aluminum siding and all that person does is sell out of his home, he does not receive merchandise, he doesn't distribute merchandise. The restriction they have on those are things that are meant to keep them small and keep them within the building so that they do not have any impact on the residential area around them. Currently in the Zoning Use Table, most of them have a diamond which says that you can have the business by right, you do not have to get a Special Use Permit, but you have to go by the restrictions. In a couple of areas it indicates that a Special Use Permit is required, but you don't have to necessarily go by the restrictions. The way that has been enforced is that they have been letting people have home businesses by right, which she thinks is what the intent was, as long as they go by the restrictions. They would like to make the table reflect that, so there is no variation in the residential areas. Chairman Fricks asked who would be responsible to monitor and acknowledge the restrictions. Ms. Hiller replied the Zoning Coordinator and Assistant Zoning Coordinator have the responsibility for reviewing those. When someone has a home business in the City they apply for a business license. The County does not have business license so they would review them only if it is brought to their attention. If they receive complaints from neighbors, they would be able to use these for enforcement purposes. She commented that they hope to be finished with revisions of this type within the next couple of months. They need to do one final sweep through the document for typographical errors and contradictory things.

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

YES

NO

Commissioner Hufstetler

" Jennings

" Mahanay

" Mayes

Chairman Fricks

Motion Carried

MOTION was made by Commissioner Hufstetler to **accept** the Planning Commission's recommendations and revise Article 3.3.2h(1) concerning the description and characteristics of the C-C (Community Commercial) district, and revise Article 3.4 (Table 3-1) concerning the requirements for residential business in all residential districts. SECOND by Commissioner Mayes. VOTING:

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

Motion Carried

CHAIRMAN'S REPORT

APPOINTMENTS.

No action taken.

COMMISSIONER'S REPORT

ADMINISTRATIVE/FINANCE COMMITTEE:

AMENDMENT TO VESTED INTEREST IN EXISTING INDUSTRY.

Commissioner Hufstetler, Committee Chairman, stated that this was written as existing industry, but would actually apply to residential as well, that had an existing use in place. County Attorney Wade Hoyt stated if the Board intends to improve this, it would need to be adopted as a Policy of the Floyd County Board of Commissioners at this meeting and then instruct him to take the legal steps to incorporate it into the ULDC and the policy and amendment would read as follows: "In the unincorporated areas a use that was lawfully established on property prior to the adoption, revision or amendment of the ULDC shall not be considered a non-conforming use under the provisions of the ordinance and therefore is not subject to the prohibitions of enlargement or expansion of an existing use. The amendment does not abate the compliance with current building codes and setback requirements and term lawfully established is defined as a legal or authorized use of property as it existed prior to the adoption of this ordinance."

MOTION was made by Commissioner Hufstetler to adopt that as a policy and that the attorney be instructed to send it through the Planning Commission to come back to the Board of Commissioners. SECOND by Commissioner Mahanay.

Commissioner Jennings offered an amendment to the Motion. After the first sentence, before the word “use” to insert the word “certain identified industrial uses”. SECOND by Commissioner Mayes.

Commissioner Hufstetler stated that he is looking at this as applying not just to the industry, but to other people in other situations as well, that are zoned incorrectly, such as O-I and are actually Suburban Residential. Commissioner Jennings stated that his concern is that they are broad brushing this particular issue and it does bring into consideration junkyards; it brings into consideration concentrated animal feeding operation; it brings into consideration a commercial use in a neighborhood. They have had all of those circumstances before them and it concerns him that they are trying to address an industrial issue by opening up all possible expansion of uses. He stated that he is not opposed to certain identified industrial uses, but he is opposed to this being a broad brush for any circumstance within the county.

Commissioner Hufstetler stated that the industries or the houses or junkyards that were zoned one way, why would they be allowed but those that were improperly zoned, not be allowed? It seems there should be a better way to control them than this method or arbitrarily saying we are going to control some of them, but we are not going to control some of them. This would put everyone on an equal footing and if we need to have Special Use Permits for feeding lots, for example, that is a better way to control this than picking out one part and giving an advantage over another part, simply because of errors in zoning.

Commissioner Jennings stated that this was raised as industrial, it is worded as “vested interest in existing industry”, and this is raised as an industrial circumstance. He stated that he agrees with Commissioner Hufstetler’s discussion in Caucus about expanding existing industries that are an important economic benefit for the community. It seems that is the intent of the amendment and he is not opposed to that. Chairman Fricks stated that when you refer to existing industries and define that, would not the man that works on a car be an existing industry?

Commissioner Mahanay stated that he is concerned about the term “industry,” there is heavy industry, there is light industry, there is commercial, there is heavy commercial, light commercial, they are talking semantics to a point. That is why he is not sure they can stray too far from existing industry. He asked Commissioner Jennings to repeat the terminology he had used. Commissioner Jennings replied “certain identified industrial uses”. It was asked, what is certain? Commissioner Mayes asked the County Attorney for an opinion. County Attorney Hoyt stated that if it is going to couch it in terms of certain identifiable industrial uses, before it is put in place the Board would have to identify the uses. Commissioner Jennings stated that would allow them to limit it to, for example, there is a industrial prospect for this community, they could limit it to that prospect and not open themselves up to all sorts of expanded uses.

Chairman Fricks stated that he is reflecting the property owner. There will be one at the next meeting who wants to build a garage on his existing house, but is zoned improperly

and is not allowed to do that without going through rezoning. In his opinion, he has a vested right, and the amendment would give him the vested right to continue to add on to his residence, because he has established that it is a residence and it was improperly zoned. At this stage of the game, the owner is not wanting to go through multiple public hearings and a rezoning classification process and put himself up for scrutiny because we made the mistake of identifying his property. Chairman Fricks stated that that man has as much of a vested right as the industry, and just because he is not creating a \$25 million investment or 30 jobs, he has a much compassion for him as to industry. Commissioner Hufstetler stated that he would still have to meet all the setback requirements on building a garage and every other code and he does not feel they should have to go through what they are put through.

Commissioner Jennings stated that if the property is improperly zoned, what the process does is that it gets the property properly zoned which is probably in his best interest to do. He goes to sell the property, and if he seeks a loan to build that garage, he probably is going to have some difficulty in doing those two things with improper zoning. Commissioner Jennings stated that this is a band-aid fix that ultimately does not help that property owner who can't build his garage for a couple of months until it is corrected.

Commissioner Mahanay stated that he Seconded the original Motion and he Seconded it with this thought in mind. He went back to the definition of existing industry. He does not consider somebody adding a garage on or whatever as existing industry. If we want to say existing industry, i.e. six or more employees. He thinks they are talking apples and oranges. He stated that he seconded it just as it reads.

Chairman Fricks stated that he has a Motion and a Second on the amended Motion and asked the roll be called.

Commissioner Mayes asked for clarification on the term existing industry. Commissioner Mahanay stated that he is taking it literally, existing industry. Commissioner Jennings stated that County Attorney Hoyt had not said "existing industry". County Attorney Hoyt stated that he had stated "in the unincorporated area a use that was lawfully established," not industrial use, simply "use". Commissioner Hufstetler stated that this will put the man with the garage on the same footing as an industry and if he wants to add on a garage to his house and meets all of the setback requirements, he doesn't have to go through the process.

Commissioner Jennings stated, "and the person with the junkyard and the person with the commercial use in a residential area and the person with a existing chicken barn." He understands they can handle the chicken barn through Special Use Permits but this is not just as the County Attorney worded it, it is not limited to industries. It is a broad brush allowing any existing use to expand within the unincorporated Floyd County.

Commissioner Mayes stated that we are not necessarily fair when it comes to industry, we do not give the man building the garage a tax abatement like we do industry.

So we are not fair as to how we treat industry versus how we treat the guy who is building a garage.

Commissioner Mahanay stated that, in Caucus, they were using an example which was referenced by the County Attorney. That example was what he had in mind and that he would like to make sure that we respond positively to the Attorney's comments on that. Commissioner Jennings stated that in his mind the amendment focuses in on industry. Commissioner Hufstetler stated that it just muddies the water. He is saying "certain industries" and we do not know what "certain industries" are, that is just going to send it back. County Attorney Hoyt stated that a Committee would have to be appointed for them to define the term "certain identifiable industries". Commissioner Mayes asked if it had to say "certain," can it say "industry". County Attorney Hoyt replied that it could, if three of them want that. Chairman Fricks stated that they would then need to define industry. It was noted that the man with the garage has been through three months of delays and public hearings, just to get a garage built on his home and he has been living there 24 years. Chairman Fricks stated that he would like to fix that. Commissioner Mahanay stated that he does also, but he thinks they are talking different issues.

Commissioner Mayes stated that they are trying to fix this with an amendment, they have a proposal that had been brought before them and they saw it for the first time an hour ago and they are trying to put a law into place. He suggested they look at this matter between now and the next four or five days and, if a special meeting has to be called, to just vote to fix this. Commissioner Hufstetler stated that this will be returned to the Board, they are saying that this will be a policy and then it will go back through the Planning Commission. It will come back to them, so there will be weeks to fine tune it. Chairman Fricks stated that this is an item they have already had twice and two votes on. Commissioner Mahanay stated that they need to handle this business. Commissioner Mayes stated that this amendment may not fit the needs.

Chairman Fricks asked if the intentions could be to limit it away from the residential property owner and put it only in the industry, give them the right and not give the property owner the right. Commissioner Mayes stated that regarding fairness, they do not do things very fairly when it comes to what they do for industry versus what is done for the homeowner. Commissioner Hufstetler stated that they can start making it more fair for the homeowner by including them in this.

Commissioner Mayes stated that they do not seem to have an item that they are agreeing on, but he feels they can sit down and come up with something that will work better if they take a few days to look at it. Commissioner Hufstetler stated there will be weeks to look at it, it is a policy and will come back through here again. Commissioner Mahanay asked the extent that this could be tweaked.

County Attorney Hoyt stated that he was not prepared necessarily for them at this point to consider changing the language to that extent. If they are going to do that, if they want to consider within the next four or five days whether you can actually change this

language, he wants to make absolutely sure that he is convinced that it is constitutional to pick a certain group out and just do this for industry and not for anybody else. It may be that they cannot do that, that the federal law would not allow them to pick out a certain set of individuals and give them this benefit, but not give it to everybody. If it is their intention to take four or five days, you need to let him look at that, so he can tell them what he thinks the federal law might be in that regard. If it is their intention to adopt the amendment, or if it is their intention to adopt the initial language, then either way they want to do it is fine. But if the intention is to take four or five days as a part of that process, he might have to come back and say it is either all or nothing. He will have to look at that law between now and then and see if they can favor industry and not anybody else. Commissioner Mahanay stated that he is not saying that he favors one or the other, he is saying that he is not sure that it can all be done together. County Attorney Hoyt stated that if they stated it that way and said, for instance, in unincorporated areas, an industrial use that was lawfully established and defined that, then they have taken out of the mix, agricultural uses that were lawfully established; residential uses that were lawfully established; and he is not convinced they can do that constitutionally.

Commissioner Mahanay asked County Attorney Hoyt to read the Motion, as he had written it. County Attorney Hoyt replied, "in the unincorporated areas a use (any use) that was lawfully established on property prior to the adoption, revision or amendment of the ULDC, shall not be considered a non-conforming use under the provisions of the ordinance and therefore is not subject to the prohibitions of enlargement or expansion of an existing use." In his draft, any use that was lawfully established on property that pre-existed the ULDC can expand and enlarge that existing use, only on the property they currently own. If they buy anything else and try to expand, they would have to come before the Planning Commission. You are saying property that you had prior to the ULDC, you may use that property in its existing use and you may expand that existing use only, subject to the building codes and setbacks.

Commissioner Jennings asked if there was a caveat to that that addressed anything in the county that requires a Special Use Permit, for example, a junkyard. They are looking at having concentrated animal feeding requiring a Special Use Permit. How about limiting it by saying at the end, "unless under the code is a use that requires a Special Use Permit". County Attorney Hoyt replied that in saying that, what they would have to say is that any property that had an existing use that required to be rezoned to expand that existing use would be covered, but something that required a Special Use Permit, would not be. Commissioner Jennings replied that is what he was wanting to say. County Attorney Hoyt replied that if the Board wanted to do that, they could. Commissioner Jennings stated that most of the noxious circumstances in the county require a Special Use Permit. So, if they limit the expansion to anything other than those things that require a Special Use Permit, he thinks he could support it. Commissioner Mayes stated that he could support that because it does anything you are trying to do and it doesn't affect the man with the garage either.

Commissioner Hufstetler asked what if there is someone with proper zoning and another person was not given the proper zoning, were they treating them the same? Commissioner Jennings replied, yes, if the person who has proper zoning, if they want to have an expanded use or different use that would require a Special Use Permit, they still have to get a Special Use Permit. He asked Ms. Hiller to discuss this. She stated that at this time there is something in the code which says if you are a legally established use, prior to the adoption, revision, or change in zoning, and the change in zoning makes you a use that requires a Special Use Permit, you are not treated like a non-conforming use, you can expand on that use. It seems to her that what they are saying is that you are going to make a trade and all of a sudden those special uses would be treated like a non-conforming use, but certain others would be. Chairman Fricks stated that in that interpretation, referring back to the residential which was zoned improperly, before he could actually build a garage on his residence, he had to come back and do a zoning change before he could get a permit. Ms. Hiller replied, yes, but if that was a zoning district where a residential use was allowed as a special use, you would not have to because it would be not considered a non-conforming use. It is the same thing with the chicken houses, if you make them a special use, for example, what the code says now, if they were legally established prior, that doesn't apply to them, they are allowed to continue and expand as if they were not a non-conforming use. What you are saying is that you are going to switch that around. Commissioner Jennings asked for clarification. Ms. Hiller stated that, if passed, any legally established chicken houses prior, say she has one chicken house on 20 acres, she can put more chicken houses on the 20 acres without doing anything, because now it is a Special Use use, so it is not treated like a non-conforming use. If she had a landfill in an H-I district and has already used 5 acres of a 20-acre site, well now a landfill needs a Special Use Permit, but because it was established prior to that time, legally established, it is not a non-conforming use, the landfill can be expanded on that 20-acres. County Attorney Hoyt asked what if it is a chicken house and it is rezoned improperly and you are in a Suburban Residential and you want to expand your chicken house operation, you can't do it without a Special Use Permit? Ms. Hiller replied that if you are legally established prior and S-R requires a Special Use Permit, then you are not treated as a non-conforming use. County Attorney Hoyt asked, "suppose there is an existing industry that was missed, it is in an A-R district, it is there, it is small, but they missed it and they have they a large tract of land and they want to expand the operation into a much larger operation on that same tract?" Ms. Hiller replied that they would have to be rezoned, because industrial uses would not be a Special Use use in A-R.

Commissioner Jennings asked how this problem, as described in the scenario given by County Attorney Hoyt, could be addressed without it having to go through the full process. It was noted that there is no way to do this without changing the zoning on that site. Ms. Hiller stated that if the change, read by County Attorney Hoyt, is adopted, then you are essentially saying that there are no non-conforming uses. The only thing that will be affected by zoning in the unincorporated area is new development. Existing development will not be affected, because there will be no non-conforming uses. Commissioner Jennings asked if anything that is a non-conforming use, could be

expanded. Ms. Hiller replied, "If they were legally established, which is always a hard thing to prove."

Chairman Fricks said that they were affecting some existing uses, but not others. He asked how that falls into the constitutionality. County Attorney Hoyt stated that he felt that people who feel like they have been treated improperly, could file suit, based on the constitutional interest, on the fact that we are not treating everybody the same way. Ms. Hiller stated that the point is, also, that it does not single out any particular group, it says it depends on what is appropriate in that zoning district as a use by right or a just by Special Use Permit. Chairman Fricks stated that his concern is the ones that were unfairly and improperly identified, and that we should do everything possible to correct that.

Ms. Hiller stated that she is only commenting on the Special Use aspect that had been brought up because it sounds like what is being proposed other than a Special Use Permit reverses what is there now that allows some people to go ahead and do what they want to do without being a non-conforming use. She asked if, when they say it becomes not a non-conforming use, does that apply to the other requirements for non-conforming uses, such as if it burns down, or would that make it not subject to that rule as well. County Attorney Hoyt asked if she was referring to the language he had written. She replied, "That is correct." He stated that is the language he had been given by her. Commissioner Hufstetler noted that he also does not like that it cannot be rebuilt if it burns down.

Commissioner Mahanay asked the County Attorney if they need to do anything. County Attorney Hoyt replied that, based on what Ms. Hiller stated, you have to make a change, if you want to, so that somebody who has been incorrectly zoned, and has a pre-existing use and was incorrectly zoned, they should have seen them there, they can't be agricultural because they have a plant there or something, then that individual, based on the scenario he gave in Caucus, under what Ms. Hiller just said, has to ask for a complete change in zoning. If everything was easy, you could say something like "if the property was incorrectly zoned under the ULDC as determined by the Floyd County Board of Commissioners, then a use that was lawfully established on property." "If somehow we could make it easy, I do not know if that would be more of a problem than where they stand now," said Mr. Hoyt. What the Board is trying to correct are properties that were incorrectly zoned, because there are six coming up at the next meeting. That might work if the Board could get together and three agree that it was in fact incorrectly zoned. Commissioner Jennings stated that allows them to take these on a parcel-by-parcel basis as opposed to the broad brush which says anybody can do anything. He stated that he would support that. Commissioner Hufstetler stated that it is not saying that anybody can do anything, it is saying that people can continue to do what they are doing and can expand, but have to meet the setback requirements for the current use. If the setback requirements are not proper, then they need to be changed, but they do not need to tell them they cannot continue to do what they are doing. Commissioner Jennings stated that they are not saying they cannot continue what they are doing, we are talking about expanded use. Commissioner Mahanay, noted that expansion does not mean you are changing what you are doing. County Attorney Hoyt noted that it is only the existing use that can be expanded. Commissioner Jennings stated

that if it is singled out to the parcel, then the man with the garage comes to them and they make that change for the garage, or the small industry that wants to expand comes to them and they make that change. Chairman Fricks stated that still happens even the way it is now. With rezoning, we are saying we are making people go through all of this hassle to change when they should have the right to continue what they have.

Commissioner Hufstetler stated that they should be treated the same as the person that was properly zoned. He has an unfair competitive advantage over them because the government did make a mistake when they zoned his property.

Chairman Fricks stated that they keep talking about industry and impact, but you look at the presence of small businesses in the community and how much of the industry volume is from small business and its growth. If we are worried about a \$25 million business, what about the small business. Commissioner Hufstetler stated that he would like to see this put in place as a policy and then all they are discussing, go back and fine tune later, on whatever three people agree on at that time.

Commissioner Mahanay stated that his Second still stands on one Motion. Commissioner Mayes asked if it is possible to fine-tune it after we make it a policy.

Chairman Fricks stated they are calling a vote on the amended (second) Motion. It was noted that it can be reworked, even after this meeting, before the Planning Commission adopts it. County Attorney Hoyt stated that he will submit the language adopted by the Board to the Planning Commission and they will review it and vote and then the Board will have another chance to fine tune it. In the meantime, with the permission of the Board, County Attorney Hoyt will submit to the Board four or five different scenarios based on what they have talked about today. Chairman Fricks asked for a roll call on the amended Motion. VOTING:

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

Motion Denied

Chairman Fricks asked for a vote on the original Motion. VOTING:

YES

NO

Commissioner Hufstetler

Commissioner Jennings

" Mahanay

" Mayes

Chairman Fricks

Motion Carried

**APPROVE SALARY INCREASE FOR PRISON
COUNSELOR TO PAYGRADE 12.
(4/5 VOTE REQUIRED)**

Commissioner Hufstetler, Committee Chairman, stated that this had been discussed in Caucus and requires a 4/5 vote. Motion was made by Commissioner Hufstetler to place this item on the Agenda. **SECOND** by Commissioner Mahanay. VOTING:

YES

NO

Commissioner Hufstetler

" Jennings

" Mahanay

" Mayes

Chairman Fricks

Motion Carried

MOTION was made by Commissioner Hufstetler to approve a salary increase for the Prison Counselor to a Paygrade of 12 from a Paygrade of 11. **SECOND** by Commissioner Mahanay. VOTING:

YES

NO

Commissioner Hufstetler

" Jennings

" Mahanay

" Mayes

Chairman Fricks

Motion Carried

PUBLIC SAFETY COMMITTEE.

Commissioner Mahanay reported that the next meeting of the Public Safety Committee will be August 14, 2002.

WATER COMMITTEE.

**REQUEST FOR BEEPER PAY INCREASE
FOR ON-CALL PERSONS.
(DEFERRED FROM JUNE 11, JUNE 26,
AND JULY 9, 2002 MEETINGS.)**

County Manager Kevin Poe stated that this item had been discussed in the Administrative/Finance Committee with Larry Johnson, who had been working on this. County Manager Poe presented a recommendation to increase the Beeper Pay from \$25 per week to \$30 per week and that they continue to adjust that pay based on the cost of living approved on an annual basis. Commissioner Hufstetler stated that in the Salary Survey, they did not find anyone who was receiving Beeper Pay because they get paid when they are called, a minimum of 4 hours. Actually, they are getting the Beeper Pay and the Called Pay. Commissioner Jennings noted that it does alter their lifestyle some having to carry the beeper. County Manager Poe stated that they had to consider every department in the survey, so that it will be applied fairly across the board since there are numerous departments that fall under this situation.

MOTION was made by Commissioner Hufstetler to accept the Manager's recommendation. SECOND by Commissioner Jennings. VOTING:

YES NO

Commissioner Hufstetler
" Jennings
" Mahanay
" Mayes
Chairman Fricks

Motion Carried

**AUTHORIZE CONTRACT WITH MILLER
DRILLING FOR PUMP TESTING FOR
FULTON WELL AT A COST OF \$7,180.**

**AUTHORIZE CONTRACT WITH A & S
ENVIRONMENTAL SERVICES, INC. FOR
GEOLOGICAL TESTING FOR FULTON**

WELL, AT A COST OF \$2,500.

Commissioner Jennings, Committee Chairman, stated that these pertain to the Fulton Well site. The Fulton Well is one of the Floyd County water sources, but it is a source where the pump will need to be changed and instead of just changing the pump, they want to do an evaluation of the well to make sure that it is still a viable well site. It is affected by turbidity some of the time during the year, so these two contracts with Miller Drilling Company for pump testing and A & S Environmental for the geological testing will help determine whether in fact, we need to replace the pump or whether we need to potentially abandon the well site. County Manager Poe stated that one option is to replace the pump with a different type pump that will pump from a deeper source, based on what the groundwater levels are determined to be and the amount that it pumps at any given time. Due to the turbidity problems, there are times they cannot operate the pump, but that may have to do with the way the pump is set, power in the pump and how deep it is drawn from the aquifer itself. MOTION was made by Commissioner Jennings to authorize contracts with Miller Drilling Company for pump testing at a cost of \$7,180 and A & S Environmental Services for geological testing, both for the Fulton Well, at a cost of \$2,500. SECOND by Commissioner Mayes. VOTING:

YES

NO

Commissioner Hufstetler
" Jennings
" Mahanay
" Mayes
Chairman Fricks

Motion Carried

SPECIAL COMMITTEE REPORTS

PRISON CONSTRUCTION (MAYES/MAHANAY).

Commissioner Mahanay reported that the Prison construction is on schedule and within budget.

**NEW HEALTH DEPARTMENT FACILITY
(JENNINGS/MAHANAY)**

Commissioner Jennings stated that they are meeting with the Health Department staff to go over their space needs and will be taking a field trip to the Whitfield County Health Department to take a look at their facility. The Space Needs Analysis and Projected Facility is moving forward and we intend to have something available to bring to the SPLOST Committee in the near future. Commissioner Mahanay noted that the visit to the Whitfield County Health Department will be on July 31.

EXISTING PRISON USE (MAHANAY/HUFSTETLER)

Commissioner Mahanay stated they had received a document pertaining to information which he feels will be helpful in evaluating the Work Release Program, but they have to review the document.

CONSENT AGENDA

County Clerk Michele Fountain stated there are three items on the Consent Agenda which are submitted for approval. She requested approving item number 2 contingent upon the receipt of the State Fire Marshall's approval. MOTION was made by Commissioner Mayes to place item number 3 on 4/5 vote. SECOND by Commissioner Hufstetler. VOTING:

YES NO

Commissioner Hufstetler
" Jennings
" Mahanay
" Mayes
Chairman Fricks

Motion Carried

MOTION was made by Commissioner Mayes to approve the Consent Agenda with approval of Item 2 being contingent upon the State Fire Marshall's approval. SECOND by Commissioner Hufstetler. VOTING:

YES NO

Commissioner Hufstetler
" Jennings
" Mahanay
" Mayes
Chairman Fricks

Motion Carried

1. Tax Refunds:
 - a. Eric C. & Charlotte Hunt, 11 Fay Street, \$10.63
 - b. Vickie D. Cronon, 211 Kerce Road, Kingston, \$77.28

- c. Howard D. Clark & Fran Davis, 219 Bells Ferry Road, NE, \$98.80
 - d. Brenda W. & Joe B. Haggard, 216 Burr Drive, NE, \$319.77
 - e. Janice H. Houck, 102 Old Calhoun Road, \$71.33
 - f. M.A.N. & Lils O. Patton, Jr., 64 Sayle Lane, Richmond Hill, \$10.33
 - g. Stephen A. Evans, 7 Timberland Terrace, \$3.38
 - h. James T. & Ida Brock, 1629 Big Texas Valley Road, \$181.28
 - i. The Da-Brad Company, 652 Chulio Road, \$138.57
 - j. Kathleen L. Byington (Rood), 516 East 11th Street, \$8.10
 - k. Dorothy L. Smith, % Robert Smith, 5 Pinecrest Drive, NW, \$3.20
 - l. Helen Sapp, 29 Turnbull Drive, \$10.96
 - m. Laurie L. & Ellioult L. Cunningham, 1306 Cave Spring Street, \$15.88
 - n. Mark Paris, 24 Mitchell Circle, \$552.11
 - o. J. W. Conaway, 25 Holland Drive, \$92.67
 - p. James R. & Anita Clayton, 9 Jefferson Drive, \$18.91
 - q. Sidney P. Trapp, 7 Forsyth Street, \$3.44
 - r. Inland Container, P.O. Drawer N, Diboll, TX, \$8,814.54
 - s. Judy C. Bales, 304 4th Street, P.O. Box 212, Shannon, \$124.80
 - t. Paul F. Fitzgerald/Charles Teat, 11 Benvenue Drive, \$51.35
 - u. Dunagan & Sons, Inc., 12 Meadowood Drive, \$420.37
 - v. Ross C. & Twyla Crump, 4 Ridgepointe Drive, \$11.32
 - w. Harry J. Anderson, P.O. Box 5082, \$42.95
 - x. Mary A. Earle, 3041 Turkey Mountain Road, NE, \$39.16
 - y. Stanley B. Landers, 142 Ward Mountain Road, Kingston, \$5.86
 - z. James M. David & Donna Beard, 6246 Big Texas Valley Road, \$2.04
 - aa. Glenn Mewell Formby, Glennis Grimes, 956 Old Rockmart Road, Silver Creek, \$335.97
 - bb. Michael & Shana Dempsey, 3273 Old Dalton Road, \$202.81
 - cc. Hogan & Storey Wood Products, 33 Perry Road, Armuchee, \$194.81
 - dd. Michael N. Carden, 870 Autry Road, NE, Adairsville, \$8.66
 - ee. Wilburn & Carol Shell, 174 Taylorsville Road, Aragon, \$71.77
 - ff. Jerry Wayne Massey, P.O. Box 554, Shannon, \$52.88
2. Application for Self-Service Fuel License for Malik Abdulkader A., Twinkle Food Mart, 4392 Old Calhoun Road, Shannon, Georgia.
 3. Request from Tax Commissioner for release of taxes from the July Tax Sale, totaling \$21,714.94. (4/5 vote required)

MANAGER'S REPORT

DISCUSS REQUEST FROM JIMMY JACKS

REGARDING PAYMENT OF UNUSED SICK LEAVE. (DEFERRED FROM MAY 28, JUNE 11, JUNE 25 AND JULY 9, 2002 MEETINGS)

No action taken

DISCUSS PROPOSED CHANGES TO E911 INTERGOVERNMENTAL AGREEMENT WITH CITY OF ROME PER ROME POLICE DEPARTMENT REQUEST. (DEFERRED FROM JULY 9, 2002 MEETING)

County Manager Kevin Poe stated that he had new wording on the proposal received from the City of Rome Police Department. He had talked with the City and had concerns if the County would be required to put equipment in the E911 Center solely to meet accreditation standards based on requirements from the Rome Police Department. A new document has been drafted and instead of amending the E911 Contract, we will agree to the agreement presented at this time. He referred to Paragraph 4, which is the main difference in the original proposal submitted. "The City of Rome agrees that if equipment is needed in the E911 Center that is acquired strictly for the purpose of the Rome Police Department's accreditation, the City of Rome will be responsible for payment of said equipment." County Manager Poe recommended approval of the Intergovernmental Agreement with the City of Rome related to the E911 Center. MOTION was made by Commissioner Mahanay to approve with the stipulation as outlined in Paragraph 4. SECOND by Commissioner Hufstetler with the authorization for the Chairman to sign the agreement. VOTING:

YES

NO

Commissioner Hufstetler

" Jennings

" Mahanay

" Mayes

Chairman Fricks

Motion Carried

APPROVE CHANGE ORDER #9 FROM PINSON'S INC. REGARDING THE PRISON CONSTRUCTION PROJECT.

County Manager Kevin Poe stated this is a deductive change order in the amount of \$3,200. Originally in the plans for the Prison, they had included putting down a special surface on the paved recreation area for a basketball court/sports court. It is felt that is not necessarily needed. In the future they can work with the Recreation Department to provide stripping if needed. County Manager Poe recommended acceptance of Change Order #9, a deductive Change Order in the amount of \$3,200.

MOTION was made by Commissioner Mahanay to approve Change Order #9. SECOND by Commissioner Hufstetler. VOTING:

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

Motion Carried

BID AWARDS

ANIMAL CONTROL TRANSPORT UNIT.

County Manager Kevin Poe stated that four companies had submitted bids, with the low bid being from Jones Trailer in the amount of \$8,915. He recommended acceptance of the low bid.

BIDS

Swab Wagon	\$10,600
Deerskin Manufacturing	\$11,077
Jones Trailer	\$ 8,915
Mavron	\$11,828

ARMUCHEE SCHOOL ENTRANCE – ISLANDS AND CURBING.

County Manager Kevin Poe stated that bids had been received on curb and gutter work at the Armuchee School entrance. The entrance will be off of Floyd Springs Road into the new Armuchee Middle School. The Board of Education will reimburse them for the costs. He noted that curb and gutter work had to be bid out since it is not done in-house. The low bid was from Watkins Concrete in the amount of \$12,000.

BIDS

Charlie Watkins, Watkins Concrete	\$12,000
AST Construction, Inc.	\$31,751
Spriggs Paving	No Bid
A-1 Cement Finishing	No Bid
Southern Curb, Inc.	No Bid
B & S Construction	\$21,750

SURPLUS PROPERTY ON VAN TASSEL DRIVE.

County Manager Kevin Poe stated that bids had been taken for the sale of surplus property on Van Tassel Drive. One bid had been received in the amount of \$300 from Michael and Tracy Maxwell. He recommended approval of the bid. Commissioner Mayes asked if the \$300 is anywhere close to the value of the property. County Manager Poe stated that this is just a strip of property which is partially a drainage easement.

MOTION was made by Commissioner Mahanay to approve the bid awards on the Animal Control Transport Unit, Armuchee School Entrance – Islands and Curbing, and Surplus Property on Van Tassel Drive. SECOND by Commissioner Hufstetler.

VOTING:

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

Motion Carried

RECYCLE TRUCK.

County Manager Kevin Poe referred to a memo in the Agenda Packet from Rodger Swaim to Nancy Lam, dated July 15, 2002, which explains the reasons why they are recommending the seventh low bid that was taken. There was a total of nine bids taken, some did not meet specifications. It was noted that low bid number six did meet specifications, but it has a 90 – 120 day delivery. The low bid item number seven is from Consolidated Disposable Systems of Smyrna in the amount of \$76, 399, with a delivery of 14-21 days. He recommended acceptance of that bid based on the delivery date.

MOTION was made by Commissioner Hufstetler to accept the Manager's recommendation. SECOND by Commissioner Jennings. VOTING:

	YES	NO
Commissioner Hufstetler		
" Jennings		

" Mahanay
" Mayes
Chairman Fricks

Motion Carried

BIDS

Consolidated Disposal	\$81,548
Lodal-South, Inc.	\$82,444
Heil Environmental	\$75,480
Mayo	\$73,586
Consolidated (3)	\$76,109
Consolidated (4)	\$76,399
Consolidated Disposal	\$73,865
Lodal-South, Inc.	\$80,696
McNeilus Truck	\$80,838
Heil Environmental	\$73,980
Mayo	\$76,454
Municipal Equipment	\$70,096

SURPLUS PROPERTY ON HARMONY ROAD.

County Manager Kevin Poe stated that Mrs. George Holcomb was the sole bidder and she wanted to make sure that, no matter what, she gets the property, and had given an outrageous price, well above the appraised value. In these situations you do not know who will bid. It is an open bid. County Manager Poe asked if it could be rejected and re-bid. County Attorney Hoyt stated that is the only way it can be handled, since it cannot be changed. It was noted that the property adjoins Mrs. Holcomb's property and it is an old voting precinct. County Manager Poe recommended rejecting the bid. He noted that he has not talked with Mrs. Holcomb about this. County Attorney Hoyt stated that they could adopt a Motion that either we turn the bid down and re-bid or give her the option to go through the re-bid process or pay the amount she bid. County Attorney Hoyt suggested instructing the Manager to explain the options to Mrs. Holcomb and then at the next meeting reject the bid and re-bid.

REPAIR TO COUNTERS IN TAG OFFICE.

County Manager Kevin Poe presented a request from Jim Ford to modify the counters in the Tag Office. A bid had been received from M & M Millworks, who originally did the counters for the county. The price was \$6,861 to make modifications to the counters. Situations that have arisen with workers' potential Workers Comp Claims, based on how they were designed and employee movement, are causing problems. It was noted that this was not in Mr. Ford's budget, but it will be taken from funds for Historic Courthouse Renovations in the Facilities Management Budget. Commissioner Mahanay stated that in the

interest of reducing the risk of complaints in the future, he made a MOTION to approve the request. SECOND by Commissioner Jennings. VOTING:

YES

NO

Commissioner Hufstetler
" Jennings
" Mahanay
" Mayes
Chairman Fricks

Motion Carried

**CAPITOLINE PRODUCTS, INC.
LEASE AGREEMENT.**

County Attorney Wade Hoyt stated that at the end of the last meeting a representative from Capitoline Products presented information on the Capitoline Products lease agreement which had been tabled. The meeting was reopened and the agreement was approved. It was approved subject to any stipulations in the Airport Minutes. The lease which they want approved is being presented to the Board for approval. He stated that it is a little different to the one discussed. The new lease has a term of August 1, 2002 to December 31, 2007, basically a 5-year lease. There had been concern at the last meeting regarding a 20-year lease. It is now a 5-year lease with three 5-year extensions. At the last meeting the extensions were approved subject to the fact that the Board has the option to speak on those if they wish to do so. County Attorney Hoyt stated that by 4/5 vote, they will be approving the actual Land Lease Agreement that came from the Airport Minutes and all it did was to change the term from 5-years and it requires them to pay rent in advance of \$10,660 for the full term. It was noted that the extensions are subject to the Board's approval. If this is added to the Agenda, the Motion would be to approve the newly written Land Lease Agreement as to its terms. MOTION was made by Commissioner Hufstetler to place this item on the Agenda. SECOND by Commission Mayes. VOTING:

YES

NO

Commissioner Hufstetler
" Jennings
" Mahanay

" Mayes
Chairman Fricks

Motion Carried

MOTION was made by Commissioner Hufstetler to approve the new lease from the Airport Commission for a 5-year term with three 5-year options, subject to the condition that the Board approve any extensions. SECOND by Commissioner Mahanay.
VOTING:

YES

NO

Commissioner Hufstetler
" Jennings
" Mahanay
" Mayes
Chairman Fricks

Motion Carried

ATTORNEY'S REPORT

TAX REIMBURSEMENT REQUEST FROM PATRICIA AND RODNEY WESTBROOKS.

County Attorney Wade Hoyt stated that this item had been added to his report on request of the Chairman. He noted that Mrs. Westbrook is in attendance. County Attorney Hoyt stated that by a mistake which was made through the Tax Office, Mrs. Westbrook has for years paid the taxes of Mr. Campbell and he was paying her taxes. The problem with that was that Mr. Campbell's taxes were much more than Mrs. Westbrook's taxes, so she was paying more than she would have been paying had she been correctly billed. County Attorney Hoyt stated that when he discovered this some months ago he had instructed the Tax Assessor's Office to pay her back for all of those years. This was not done. He did talk with Jim Ford and the problem is that by Georgia Law, even in circumstances such as this Mr. Ford can only reimburse three years. If there is other reimbursement, the County Commission has to do it and there is a code section whereby it can be done. If ever there were an improper overpayment, this is it, and there is a code section that allows you to declare this an improper overpayment and reimburse her. *During discussion regarding the amount, Mrs. Westbrook's comments were not audible.* County Attorney Hoyt stated that if the Board decides to solve this, Mr. Ford will help compute the amount, and by law, he would pay three years. Mr. Ford agrees this should be reimbursed. There is no question it was our mistake and it is felt the reason it was never caught was that it had her tax number, but the wrong piece of property. It was noted that Mrs. Westbrook had bought the property from Mr. Campbell. *Comments Mrs. Westbrook made from the audience were not audible.* County Attorney Hoyt stated that if they want to make the reimbursement, they will need to declare this as an improper overpayment and agree to pay from the county funds, other than the three years Mr. Ford will have to pay (2000, 2001, 2002). The Board of

Commissioners will then pick up and go back to 1991 and instruct him in the process to get with Mr. Ford and compute the amount of the overage and he will submit that to the Board.

MOTION was made by Commissioner Jennings. SECOND by Commissioner Mayes.

VOTING:

YES

NO

Commissioner Hufstetler

" Jennings

" Mahanay

" Mayes

Chairman Fricks

Motion Carried

Commissioner Jennings stated that he and Chairman Fricks had previously had a conversation about when a new business chooses to come to Floyd County, we often have a Grand Opening and they, as a Commission, provide the company with some kind of gift or memento. They had talked about perhaps commissioning an artist to do a community painting of some sort. He had a conversation with Christine Colley, who does landscapes, and he had received a price list from her and an example of her work. The painting framed would be \$450 and she also has a smaller size, which would be \$360. Commissioner Jennings had also seen the smaller size and felt the larger is more dramatic. She is willing for us to commission some paintings. If we commission her to do more than one, she would give a quantity discount. She has suggested doing paintings as opposed to prints. Prints actually would be more expensive because they do take more time in order to have the reproduction and there would still be framing costs. Also if you have more than one business, they would be given exactly the same thing, but could be from a little different perspective so they would be individual paintings. Commissioner Jennings stated that if they are interested, they need to tell her they are interested. It was noted that there are two grand openings in the near future. It was the consensus that for the first two, they would like to have the larger size. Commissioner Jennings will contact her and let her know that they would like two painting, of the same subject, but from a different perspective.

Commissioner Hufstetler noted that Commissioner Mayes is celebrating his 50th birthday today and Commissioner Jennings will have a birthday tomorrow.

Commissioner Hufstetler and County Attorney Hoyt also had birthdays in July.

ADJOURNMENT:

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

YES

NO

Commissioner Hufstetler

" Jennings

" Mahanay

" Mayes

Chairman Fricks

Motion Carried

COMMISSIONERS

FLOYD COUNTY BOARD OF

GARRY E. FRICKS, CHAIRMAN