

November 23, 2004

REGULAR MEETING
FLOYD COUNTY BOARD OF COMMISSIONERS
November 23, 2004 6:00 P.M.

PRESENT: Chairman Chuck Hufstetler, Commissioners Tom Bennett, Jerry Jennings, and John Mayes.

OTHERS

PRESENT: County Attorney Tommy Manning, County Clerk Kathy Arp, County Manager Kevin Poe and Assistant County Manager Sammy Rich.

ABSENT: Commissioner Fricks was out of town on business.

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

INVOCATION: Commissioner Bennett led the Invocation.

PLEDGE OF

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

PUBLIC PARTICIPATION.

Teresa Watson, 109 West 8th Avenue Rome, stated this was her third time to come before the Commissioners regarding the Parks Authority, and according to Ms. Watson, each time she has discovered more problems which are now bleeding over into the Floyd County government in general. Ms. Watson stated she had come to this meeting to specifically request that the Commissioners vote for a special GBI investigation into these issues. Ms. Watson stated that while she still stood by most of what she had presented in the October 26th meeting, she did need to correct one item before she revealed what she had recently discovered.

Ms. Watson stated she had depended on official documents provided to her by Bob Saylor of the Rome-Floyd Parks and Recreation Authority to be valid and accurate. She stated the financial statements listed sums of monies paid to an entity called *TMG Enterprises* specifically, and indeed, inspection of the cancelled checks revealed that the checks were written to *TMG Enterprises*. Ms. Watson also stated she had depended on Georgia, Tennessee, and Alabama Secretary of State archive searches and the only *TMG Enterprises* in all three states was the corporation belonging to Britt Madden Sr., Britt Madden Jr., and Brenda Madden. Ms. Watson stated that on September 23rd when she asked David Nix, the Financial Director of the Rome-Floyd Parks and Recreation Authority, who and what *TMG Enterprises* was, he said he had no idea, but promised to find out. She stated that despite the fact that the Georgia Open Records Act requires an entity to provide requested information within three business

days, Mr. Nix told her it would take a week or so to go through the records, and she gave him the extra time he needed. Ms. Watson stated that two days later, Mr. Nix tendered his resignation.

Ms. Watson stated that *TMG Enterprises*, Mr. Madden's corporation, never received any money from the Rome-Floyd Parks and Recreation Authority. Instead, the entity *TMG Enterprises* as listed on official Parks Authority financial reports as well as cancelled checks, was actually *The Mitchell Group Production Services, LLC* of Nashville, Tennessee, not *TMG Enterprises*. Ms. Watson stated that by the time she had to print a retraction in order to avoid litigation, she did not know this information. Ms. Watson stated that when she resubmitted her request for information, she was informed by Bob Saylor that the information would not be available until November 10, 2004. She stated that late on the afternoon of November 10th, she did receive some of the requested material, including one of the contracts that she had originally asked for. Ms. Watson stated she realized why the Parks Authority had been so adamant about providing such contract information, and while it certainly clears the Maddens and *TMG Enterprises*, it raises other questions.

Ms. Watson stated that the contract for \$4,500, which the Parks Authority paid for, is not between the Parks Authority and *The Mitchell Group*, but between *The Rome-Floyd Festivals Council* and *The Mitchell Group*. Ms. Watson added *The Rome-Floyd Festivals Council* is the company in question who supposedly donated large sums of monies to the Parks Authority in another concert venue, as identified by both Bob Saylor and Wright Bagby in a March 18, 2003 Rome News Tribune article. Ms. Watson stated in order to explain the \$10,000 discrepancy which the Commission had recently discovered in the Parks Authority account, Bob Saylor has now changed his story and attributed those funds to the *Citizens for Better Parks, Inc.*

Ms. Watson stated that *The Rome-Floyd Festivals Council*, who contracted with *The Mitchell Group* and who is supposed to be donating funds to the Parks Authority, is instead, having the Parks Authority pay for the concerts it books. She stated that this contract was signed by Tom Watson, a Parks Authority employee, on June 20, 2002, one full year before corporate papers for *The Rome-Floyd Festivals Council* were even filed, June 25, 2003 by City Attorney, David Smith. Ms. Watson stated that corporate entities misidentified on financial reports, refusal to comply with the Georgia Open Records Act, private corporations booking concerts which the Parks Authority pays for, monies that are supposedly donated by non-profit organizations to the Parks Authority, are actually flowing from the Parks Authority to those corporations, one of which technically and officially, did not exist while it was transacting business. Ms. Watson stated that this portion of her presentation was to clear the name of Britt Madden Sr., Britt Madden Jr., Brenda Madden, and *TMG Enterprises*. She stated she was truly sorry for any inconvenience and stress this may have caused them, which she could only imagine being significant, and thanked Mr. Madden for being so gracious. Ms. Watson stated she believed that the impact of the Madden's innocence will be even more significant in light of the fact that she not only stands by all of the other points of her

previous presentation, but in the fact that she has uncovered even more evidence and concrete proof that warrants a serious investigation.

Ms. Watson stated that shortly after her October 26th presentation she received the first of three letters from Wade Hoyt, III, on behalf of his client, our Floyd County Comptroller, Al Leonard, informing her that Mr. Leonard was considering filing a suit for libel and slander because in her presentation she had referred to Mr. Leonard's dual role of both Floyd County Comptroller and as a corporate officer for a company that Floyd County contracted to do business with. Ms. Watson stated that in her presentation she had used the word "illegal", and for that she was being threatened with litigation. She stated she had three pages of Georgia Code which 1) identifies Mr. Leonard as a public figure, protecting her from litigation for libel and slander, 2) code which identifies the truth as a perfect defense to litigation for libel and slander, and 3) code which identified both misdemeanor as well as felony breeches of our laws by Mr. Leonard. Ms. Watson stated Al Leonard is both the Chief Financial Officer and Corporate Secretary for *Norcon International*, which along with its sister company, *Norcon Systems, Inc.*, shares both the same physical address as well as the same CEO, and which has entered into approximately \$250,000 in contracts with Floyd County during Mr. Leonard's tenure as Floyd County Comptroller. Ms. Watson stated that despite the fraudulent insistence by Mr. Hoyt that *Norcon International* has never done any business with Floyd County, and that *Norcon Systems, Inc.* is not affiliated with *Norcon International*, she had documents from Floyd County itself, both invoices from and checks paid to *Norcon International* as well as *Norcon Systems, Inc.*, which she has provided to Mr. Hoyt, proving that his allegations are indeed false, misleading, and fraudulent. Ms. Watson stated that still in a third letter, Mr. Hoyt asks her for a retraction and threatens litigation if these issues could not be resolved. She stated this was intimidation, and it has been done in order to try to cover up both misdemeanor and possibly felony violations by Al Leonard.

Ms. Watson stated she also received a letter from Attorney Jeff MacLeod on behalf of his client, Tom Watson, who has also threatened litigation if she did not cease from these sorts of allegations. Ms. Watson stated she again responded with the Georgia Code as it pertains both to the truth of the matter and to the acts of public men and women in their public capacity. Ms. Watson stated the Georgia Code identifies not only elected officials, but also appointed officials, department heads, and managers of public entities as public men and women.

Ms. Watson stated that in conversations with agents of the Georgia Bureau of Investigation, she has been told that they can only open up an investigation if a request to do so comes from one of five very limited sources:

Option 1 - If the Chief of Police of a county with a population greater than 100,000 makes a request, the GBI will begin an investigation, but unfortunately Floyd County is still under 100,000 so Option 1 is out.

Option 2 - The County District Attorney may request GBI intervention, but as she has disclosed in previous writings, but not publicly in a meeting, she had

originally given up on this option, for reasons she will iterate momentarily. Ms. Watson stated that one of her contacts at the GBI has encouraged her to pursue the option again. She stated that in explaining her reservation in regards to approaching District Attorney, Leigh Patterson, because when she originally approached District Attorney Patterson with proof that the Parks Authority had refused the request under the Georgia Open Records Act, and after discussing in detail with Kathy Allen of the Compliance Division of the Georgia Secretary of State's Office, District Attorney Patterson answered her request with a brutal letter in which she defended Bob Saylor and the Parks Authority. Ms. Watson stated that District Attorney Patterson threatened her with an incomplete citing of the Georgia Code with regards to slander and libel because she had copied her request for an investigation to several members of both the City of Rome and the Floyd County governments.

Ms. Watson stated she was shocked that the most senior law enforcement officer in Floyd County was not aware of her rights under the U.S. Constitution to exercise her rights to free speech in regards to redress of grievances in regards to government. Ms. Watson stated she was troubled to think that District Attorney Patterson was wholly unaware of the Georgia Code as it pertains to her protection from libel and slander and cited her rights under Title 51-5-7, regarding comments about the public acts of public men and women in their public capacity. Ms. Watson stated that after District Attorney Patterson admitted that Ms. Watson was within her rights to have made these comments publicly, District Attorney Patterson apologized for the tone of the letter and offered several excuses. Ms. Watson stated that among other personal reasons, which she will not go into, District Attorney Patterson told her that she had written the letter in which she threatened Ms. Watson with only a portion of the law, without benefit of the exceptions to the rule, at the instruction of one of the City of Rome attorneys. Ms. Watson stated that she had not discussed this with the attorney, she would not use his name at this time.

Ms. Watson stated that she and District Attorney Patterson had very frank discussions about options, and that District Attorney Patterson stated she would be unwilling to convene a Grand Jury investigation because there would be no support for this "witch hunt", because Jerry Collins, a prominent Parks Authority board member, is well liked and is a Shriner. Ms. Watson stated that only after speaking with a friend of hers in law enforcement, she has come to understand that persons in highly visible positions of law enforcement, such as District Attorney Patterson, react viscerally to a stranger's accusations of others in government positions. Ms. Watson stated that perhaps Ms. Patterson not knowing her, combined with the fact that Ms. Watson had evidence at the time only of misdemeanor infractions, simply overreacted. Ms. Watson stated that it was District Attorney Patterson who had arranged for an appointment for her to speak to the very city attorney that had instructed Ms. Patterson to write the letter threatening Ms. Watson in the first place. The city attorney had included Floyd County Attorney Virginia Harman in that meeting, and the results were very productive as far as getting some of the documents which were requested from the Parks Authority. Ms. Watson stated she was still conflicted about leaving the question of engaging the Georgia Bureau of

Investigation solely up to District Attorney Patterson, and that is why she was confronting the Commission.

Option 3 – The Chief of Police from a municipality can request intervention by the GBI, but at this time Ms. Watson stated she would refrain from explaining her hesitation in approaching the City of Rome Police Department, and that District Attorney Patterson was aware of it.

Option 4 – The County Sheriff may request the GBI to become involved in an investigation, and should it become necessary, Ms. Watson stated she would approach Sheriff Elect Tim Burkhalter in regards to all of this, but will wait until he is inaugurated and has a chance to adjust to his new position and it could be late Spring if the Commission doesn't take action.

Option 5 - The last and final manner in which the GBI may begin an investigation is if the Governor's office makes the request. Ms. Watson stated that in reading the Code she has actually discovered that the governing authority of a county may petition the Governor's office to make this request. She stated she had cited the Code and told the Commissioners they are the governing authority and reminded them that all that is necessary for evil to persist is for enough good men to do nothing. Ms. Watson stated that she was not a public figure, not an elected official, and not a government employee, and yet she has put herself on the line. Ms. Watson stated she has spent a good deal of her summer and a significant amount of her own money investigating these issues. Ms. Watson stated she has endured insults publicly and heard threats privately, and she has been threatened and intimidated with litigation for simply pointing out factual truth. Ms. Watson asked the Commission what they were willing to do to see that the laws are enforced, and that white-collar criminals in our county government entities are prosecuted. She stated she put the question to the Board corporately and individually. Ms. Watson asked, "Will you gentlemen be good men who do nothing, or will you vote tonight to request Governor Sonny Perdue's office for a GBI investigation into these issues before you? Ms. Watson stated, Commissioner Mayes, will you vote tonight or at some time in the future to request Governor Perdue's office for a GBI investigation? Commissioner Bennett, Commissioner Jennings, Commissioner Hufstetler, will you vote tonight or some time in the future, to request a GBI investigation"?

ADOPTION OF MINUTES:

Chairman Hufstetler asked County Attorney Tommy Manning if the minutes from the November 9th meeting were in order. Attorney Manning stated the minutes had been reviewed and are in order. Commissioner Bennett made a MOTION to approve the minutes as presented. SECOND by Commissioner Jennings. VOTING:

YES

NO

Commissioner Mayes
" Jennings

" Bennett
Chairman Hufstetler

Motion Carried

RESOLUTIONS:
ADOPT RESOLUTION FOR DE-ANNEXATION
OF PROPERTY AT 10 LOVELL LANE

Attorney Tommy Manning stated this is a resolution concerning the de-annexation of 10 Lovell Lane, and as he understood it, this was a request made by the property owners pursuant to Section 36-36-22 of the Georgia Code. Attorney Manning stated the property owners were seeking to have their property de-annexed from the City of Rome in order to make changes with regard to the schooling of their children. Attorney Manning stated that there is a provision under Georgia Code that allows someone who is on the City-County line to request de-annexation, and in order for that process to be approved, the County must pass a resolution stating they do not have any objection and that they consent to the de-annexation. Attorney Manning stated if that takes place and the Commission approves the resolution, then the City Commission takes up the issue and it is their ultimate decision whether or not the property would be de-annexed.

Commissioner Jennings made a MOTION to approve the Resolution setting forth that there is no objection to the de-annexation of this property from the City of Rome and allow for the re-annexation of this property into Floyd County. SECOND by Commissioner Mayes. VOTING:

YES

NO

Commissioner Mayes
" Jennings
" Bennett
Chairman Hufstetler

Motion Carried

PUBLIC HEARINGS:

Chairman Hufstetler stated there are Public Hearings and there would be an opportunity for those opposed and those in support to speak. Those in support would speak first, those in opposition would speak second, and those in support have a right of rebuttal only of those items specifically brought up by those in opposition.

**FILE #62-2004Z, REQUESTS REZONING FROM
CC (COMMUNITY COMMERCIAL) TO S-R
(SUBURBAN RESIDENTIAL) TO CONSTRUCT
SINGLE FAMILY RESIDENTIAL DWELLINGS ON
PROPERTY LOCATED AT OLD BILLY PYLE ROAD
AND BURNETT FERRY ROAD. ZONING MAP
H14X-405. (PLANNING COMMISSION RECOMMENDATION:
APPROVE [VOTE: 7- 0])
(FIRST READING HELD NOVEMBER 9, 2004)**

Chairman Hufstetler called for a motion to open the Public Hearing. Commissioner Bennett made a MOTION to open the Public Hearing. SECOND by Commissioner Jennings. VOTE:

YES

NO

Commissioner Mayes

" Jennings

" Bennett

Chairman Hufstetler

Motion Carried

Chairman Hufstetler stated the Public Hearing was open and asked Sue Hiller, Rome-Floyd County Planning Director, to make her presentation. Ms. Hiller stated that this request comes with a recommendation from both the Staff and the Planning Commission that the Board approve the rezoning. Ms. Hiller stated that there was commercial property to the South of this property and everything else around it was zoned residential and is indeed developed residentially and that all services and utilities are in place for residential use. Ms. Hiller stated that it is a very low-density residential area, and for that reason rezoning seems to be appropriate, not only for this property, but also for the surrounding property, and for that reason recommends approval of the rezoning.

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

YES

NO

Commissioner Mayes

" Jennings

" Bennett

Chairman Hufstetler

Motion Carried

Chairman Hufstetler stated that the Public Hearing was now closed and called for a motion to approve or deny. Commissioner Mayes made a MOTION to **approve**. SECOND by Commissioner Bennett. VOTING:

YES

NO

Commissioner Mayes

" Jennings

" Bennett

Chairman Hufstetler

Motion Carried

**FILE #66-2004Z, REQUESTS REZONING FROM
O-I (OFFICE INSTITUTIONAL TO L-I (LIGHT
INDUSTRIAL) TO OPERATE COMMERCIAL
FURNITURE REPAIR AND INDOOR STORAGE/
WAREHOUSE ON PROPERTY LOCATED ON
REECEBURG ROAD. ZONING MAP J16Z-141.
(PLANNING COMMISSION RECOMMENDATION:
[VOTE: 7 – 0 WITHDRAW WITHOUT PREJUDICE])
(FIRST READING HELD NOVEMBER 9, 2004)**

Chairman Hufstetler called for a motion to open the Public Hearing.
Commissioner Jennings made a MOTION to open the Public Hearing. SECOND by
Commissioner Bennett. VOTING:

YES

NO

Commissioner Mayes

" Jennings

" Bennett

Chairman Hufstetler

Motion Carried

Chairman Hufstetler asked Sue Hiller, Rome-Floyd County Planning
Director for her presentation. Ms. Hiller stated the rezoning was withdrawn at the
Planning Commission level so it had to come before the Board. She stated it became
clear at the Planning Commission meeting that this rezoning was probably not going to
be approved, the lot doesn't even have any road frontage and is surrounded by residential
property. Ms. Hiller also stated that the applicant is a craftsman who works on furniture
on a very small scale and as such, he can be accommodated as a residential occupation
without having to rezone the property. She stated the Planning Commission asked the
applicant if he would like to withdraw his request, which he agreed to, and told him he
needs to work with the Building Inspection Department on any building issues he may
have.

Chairman Hufstetler asked if there was anyone wishing to speak in support or
opposition of this issue. Being none, Chairman Hufstetler called for a motion to close the public
hearing. Commissioner Bennett made a MOTION to close the public hearing. SECOND by
Commissioner Jennings. VOTING:

YES

NO

Commissioner Mayes

" Jennings

" Bennett
Chairman Hufstetler

Motion Carried

Chairman Hufstetler stated the public hearing was closed and called for a motion to approve, deny, or withdraw without prejudice. Commissioner Bennett made a MOTION to allow the applicant to **withdraw without prejudice**. SECOND by Commissioner Jennings. VOTING:

YES NO

Commissioner Mayes
" Jennings
" Bennett
Chairman Hufstetler

Motion Carried

**FILE #12-2004SUP, REQUESTS A SPECIAL USE PERMIT
TO CONSTRUCT MINI WAREHOUSES IN A C-C
(COMMUNITY COMMERCIAL) ZONING DISTRICT ON
PROPERTY LOCATED AT 4704 MARTHA BERRY HIGHWAY.
ZONING MAP J10X-068. (PLANNING COMMISSION
RECOMMENDATION: APPROVE [VOTE; 7 – 0])
(FIRST READING HELD NOVEMBER 9, 2004)**

Chairman Hufstetler called for a motion to open the Public Hearing. Commissioner Mayes made a MOTION to open the Public Hearing. SECOND by Commissioner Bennett. VOTING:

YES NO

Commissioner Mayes
" Jennings
" Bennett
Chairman Hufstetler

Motion Carried

Chairman Hufstetler asked Sue Hiller, Planning Commission Director, to make her presentation. Ms. Hiller stated this property consisted of more than one lot and has suburban residential property around it. She stated the property used to be a greenhouse and a hardware store and that business is no longer there. The current applicant intends to use the building as a retail building and he would like to use the rest of the property for mini warehouses, and in a C-C zoning district that would require a special use permit. Ms. Hiller stated that the site plan submitted by the applicant

indicates he does have room to do what he wants to do on the property and still meet the requirements of the code for parking, driveways, and storm water management. Ms. Hiller stated there were previously issues with this, and the applicant has indicated that he will continue to work with building inspection to resolve these issues. Chairman Hufstetler asked if there was anyone who wished to speak in support of this issue.

Support:

Preston Smith, 711 Broad Street, spoke on behalf of the Cox-Byington law firm representing Mr. & Mrs. Richard Miles. Mr. Smith thanked the Commission for addressing the special use permit and stated that Ms. Hiller did a good job explaining the purpose for which the application was filed. The property is zoned Community Commercial right now and is at the intersection of US Highway 27 North and McGrady Road. Mr. Smith stated they had sought out but had not had any objections from any of the neighbors surrounding the property and as Ms. Hiller summarized, the Planning Commission Staff has recommended approval of this special use permit. Mr. Smith stated that his client, Mr. Miles, has put substantial resources into improving that former hardware store for use as retail space in the future and the only variance requested was a piece of the awning which overhung the buffer area. Mr. Miles has been working with the building department and does not intend to submit any more variance request. Mr. Smith stated the building was a substantial improvement in appearance and will be a positive impact in that area adding that the area formerly used as a greenhouse is a perfect size for Mr. Miles' mini warehouse space and in the upper corner there is a garage area that will continue to be used for that purpose. Mr. Smith stated there is a nice natural buffer of trees that runs along the border of the property and it will remain in place once the mini warehouses are put in, subject to the Commission's approval.

Chairman Hufstetler called for a motion to close the public hearing. Commissioner Mayes made a MOTION to close the public hearing. SECOND by Commissioner Jennings. VOTING:

YES

NO

Commissioner Mayes

" Jennings

" Bennett

Chairman Hufstetler

Motion Carried

Chairman Hufstetler called for a motion to approve or deny. Commissioner Mayes made a MOTION to **approve**. SECOND by Commissioner Bennett. VOTING:

YES

NO

Commissioner Mayes
" Jennings
" Bennett
Chairman Hufstetler

Motion Carried

**FILE #13-2004SUP, REQUESTS A SPECIAL USE
PERMIT TO OPERATE A LAWN CARE/GARDEN
SERVICE IN A S-R (SUBURBAN RESIDENTIAL)
ZONING DISTRICT ON PROPERTY LOCATED AT
2317 CALHOUN ROAD. ZONING MAP K12Z-080, 081.
(PLANNING COMMISSION RECOMMENDATION:
APPROVE [VOTE: 7 – 0])
(FIRST READING HELD NOVEMBER 9, 2004)**

Chairman Hufstetler called for a motion to open the public hearing.
Commissioner Bennett made a MOTION to open the public hearing. SECOND by
Commissioner Mayes. VOTING:

YES

NO

Commissioner Mayes
" Jennings
" Bennett
Chairman Hufstetler

Motion Carried

Chairman Hufstetler asked Sue Hiller, Planning Commission Director, to give her presentation. Ms. Hiller stated the property was actually two lots surrounded by residential uses and rural uses. In this particular case, the business request to have a lawn and garden service can be accommodated without a zoning change by granting a special use permit and that is what the applicant is seeking. She stated there was a house on the property that would continue to be a house and would be seen from the street. Ms. Hiller stated that in the back where there was some undeveloped land, they propose to put in an additional building to store their equipment inside, not outside, and run a lawn care service out of that. She stated that public services were available to this property with the exception of public sewer and that the Planning Commission had received a lot of phone calls concerning this issue from the surrounding neighborhood. Ms. Hiller stated the Planning Commission had explained to the neighbors that would be the only business use that would be permitted there under the special use permit and they seemed comfortable with that. The Planning Commission did not have anyone show up at the meeting to speak against this special use permit. The Planning Staff had recommended that since it is sort of a gray area whether there would be a buffer requirement, and recommended that approval be conditioned on 25 feet of buffer on rear property lines, and 10 feet on side

property lines. Ms. Hiller stated this does come before the Board with a recommendation from the Planning Commission and Staff that the Board approve.

Chairman Hufstetler asked if there was anyone who wished to speak in support or opposition of this special use permit.

Oppose:

Sherold Salmon, 2485 Calhoun Highway, stated he was not there to prevent anyone from using their land to the best of their ability, but he was speaking basically for the neighbors in the community. Mr. Salmon stated most of the residents in the area are elderly and have expressed concerns about what facilities are going to be used there and what it would do to their little community. Mr. Salmon expressed concerns about how the property would be used and how the buffers were going to work. Commissioner Bennett stated that he understood the applicants would be constructing a building to house the equipment and asked Ms. Hiller if she did say there was a recommendation to do a 25' buffer on the rear line. Commissioner Bennett asked Ms. Hiller if she could show where the 25' buffer and the 10' buffer was located. Mr. Salmon asked if he understood Ms. Hiller to say that they would do a buffer if they built a building on the front. Chairman Hufstetler asked for something to say whatever the applicant built would be in the back area and not in the residential area. Commissioner Bennett stated he would like to do further conditions that if for some reason the applicant did not build a new building this still would not prevent them from having to maintain the 25' and 10' buffers to shield it from the residents. Mr. Salmon recommended that the house be the line and that anything built behind the house would be okay, but anything beside the house and to the front would still be as a residence. Commissioner Jennings stated that Ms. Hiller had indicated there was an incomplete site plan and that the Board should condition a complete site plan be submitted to the Building Inspector.

Chairman Hufstetler asked if there was anyone else who wished to speak on this matter. Being none, Chairman Hufstetler called for a motion to close the public hearing. Commissioner Bennett made a MOTION to close the public hearing. SECOND by Commissioner Jennings. VOTING:

YES

NO

Commissioner Mayes

" Jennings

" Bennett

Chairman Hufstetler

Motion Carried

Chairman Hufstetler stated the Public Hearing was closed and called for a motion to approve or deny. Commissioner Bennett made a MOTION to approve the special use permit with the condition that the existing house on the property would remain as a residence and that the side lot lines behind the rear of the house would have a 10' buffer, and the rear lot lines would

have a 25' buffer in order to operate the business and subject to an approved site plan.
SECOND by Commissioner Mayes. VOTING:

YES

NO

Commissioner Mayes

" Jennings

" Bennett

Chairman Hufstetler

Motion Carried

CHAIRMAN'S REPORT

1. DISCUSS ZION FARMS MALT BEVERAGE APPLICATION

Chairman Hufstetler asked County Attorney Tommy Manning to address this matter. Attorney Manning stated with regard to the Zion Farms malt beverage application which the Commission had denied several meetings ago, there had been some discussion about whether or not the application for Zion Farms could be resubmitted by the applicant. Mr. Manning stated that according to the new ordinance, normally there is a 12-month waiting period before resubmitting an application, but the new ordinance does allow for the Commission to waive that requirement if they so choose.

Chairman Hufstetler stated it was his understanding that the applicant didn't understand they had to be at the meeting and were confused and he would like Zion Farms to have a fair hearing. Chairman Hufstetler stated that based on the information he had, there may some zoning issues and he wasn't sure if the zoning shouldn't come first. Attorney Manning stated what the Commission could do, if they saw fit, is pass a motion that would allow Zion Farms to resubmit their application sooner than the normal 12-month waiting period that they would ordinarily have to wait after the decision of the Commission and that would give them the flexibility, not to necessarily file on Monday but to talk with the County Manager or Mr. Rich, the Assistant County Manager, regarding the zoning issues and could talk in a comprehensive way before they submitted their application, but the Commission could go ahead and give them the authority to do that if they so chose.

Commissioner Bennett stated that at the last meeting he made a motion to approve to get the discussion going, and as it turned out he tried to withdraw that motion when it looked like there would be a problem that could cause Zion Farms a twelve-month delay. Mr. Bennett stated that the Board either had the opportunity to vote to approve, which no one was prepared to do at that time; or vote to deny, and the Board wound up denying Zion's application and that was unintentional on his part because he did try to withdraw the motion. Commissioner Bennett stated if the Board made a motion to waive the twelve-month requirement for Zion Farms to reapply, that still does not grant them their request, it only allows them before a twelve-month period has lapsed, to

come in, address the issues of proper zoning, and whether or not the Board would vote to approve their application. Commissioner Bennett stated the Board was not granting Zion Farms the application, they were just trying to keep from causing them a twelve-month delay and he would be prepared to make that motion.

Commissioner Jennings stated that at the time the vote was taken, he personally was concerned about the zoning questions and he thought the Board had raised some issues. Mr. Jennings stated it was clear to us all about the options as far as zoning and he certainly would encourage the applicants to pursue that change.

Commissioner Bennett made a MOTION to waive the 12-month requirement in order to allow Zion Farms to reapply for their malt beverage application. SECOND by Commissioner Jennings.

Discussion: Chairman Hufstetler stated that this does not grant Zion Farms' request, but allows them a hearing. VOTING:

YES

NO

Commissioner Mayes

" Jennings

" Bennett

Chairman Hufstetler

Motion Carried

COMMISSIONER'S REPORT

1. **Administrative/Finance Committee – Commissioner Fricks, Committee Chairman –** No report.
2. **Public Safety Committee –Commissioner Mayes, Committee Chairman –** No report.
3. **Public Works Committee – Commissioner Bennett, Committee Chairman-** No report.
4. **Water Committee- Commissioner Jennings, Committee Chairman-** No report.
5. **Special Committee Reports.**
 - A. New Health Department Facility (Jennings/Bennett) – No report.
 - B. Existing Prison Use (Hufstetler/Mayes) – No report.
 - C. Consolidation Task Force (Fricks/Hufstetler) – No report.

- D. SPLOST Projects- No report.
- E. Lock and Dam Projects – No report.
- F. Parking Committee (Fricks/Bennett) –

County Manager Poe stated he had met with the consultants and they will start working on the parking demand portion of the project immediately.

CLERK’S REPORT.

CONSENT AGENDA.

County Clerk Kathy Arp, stated there was one item on the Consent Agenda that has been reviewed and is submitted for approval. Commissioner Mayes made a MOTION to approve the Consent Agenda as submitted. SECOND by Commissioner Bennett. VOTING:

YES

NO

Commissioner Mayes
" Jennings
" Bennett
Chairman Hufstetler

Motion Carried

1. Tax Refunds

- a. Chris & Angela Ingram, 324 Canard Road SE, \$97.90
- b. DeForest & Nancy Hamilton, 6 Preakness Court, \$.54
- c. Brynn Properties LLC, 3 Villa Drive, \$5.30
- d. Jimmy Williams, 1603 Ward Mtn Road SE, \$67.47
- e. Larissa Wheeler Kines, 19 Greenvalley Road SE, \$5.00
- f. Drew John Vandam, 76 Scott Road NE, \$64.77

MANAGER’S REPORT

**1. CONSIDER ACCESS LICENSE AGREEMENT
BETWEEN FLOYD COUNTY AND FLORIDA
TILE INDUSTRIES, INC. FOR GROUNDWATER
MONITORING AT BERRYHILL LANDFILL**

County Manager Poe stated that the Environmental Protection Division is requiring the County to put in an additional monitoring well South of Berryhill Landfill due to some testing results gathered previously. Mr. Poe stated that on the

South end of the Florida Tile property, the County already has two monitoring wells and has an existing agreement with Florida Tile. County Manager Poe stated that the County needs to put in a third monitoring well and basically what the agreement does is allow the County to have access to Florida Tile property for purposes of installing and monitoring an additional assessment well. County Manager Poe made a recommendation to authorize the Chairman to sign the Access License Agreement.

Commissioner Bennett made a MOTION to authorize the Chairman to sign the Access License Agreement with Florida Tile. SECOND by Commissioner Jennings. VOTING:

YES

NO

Commissioner Mayes

" Jennings

" Bennett

Chairman Hufstetler

Motion Carried

**2. CONSIDER RECOMMENDATION FROM AIRPORT
COMMISSION REGARDING WORK AUTHORIZATION
#7 BETWEEN FLOYD COUNTY AND LPA GROUP INC.
FOR PAVEMENT MAINTENANCE (RUNWAY 7/25 AT
RICHARD B. RUSSELL REGIONAL AIRPORT)**

County Manager Poe stated this comes from a recommendation from the Airport Commission whereby the County pays the cost upfront, but will be reimbursed 95% through FAA funds. Mr. Poe stated the work authorization is for professional engineering services and basically the LPA Group would be paid a basic service fee of \$3,540 which involves the preliminary design phase, and the technical investigation would be in the amount of \$13,200. County Manager Poe recommended approval for the Chairman to authorize the Work Authorization Agreement.

Commissioner Bennett made a MOTION to authorize the Chairman to execute the Work Authorization Agreement with LPA Group. SECOND by Commissioner Mayes. VOTING:

YES

NO

Commissioner Mayes

" Jennings

" Bennett

Chairman Hufstetler

Motion Carried

3. DISCUSS FY2005 BUDGET ADOPTION PROCESS

County Manager Poe stated that the first draft of the budget would be on file in the County Clerk's Office. County Manager Poe stated that beginning next month, they would try to get some budget hearings in before the holidays and pick back up at the first of the year. No action required.

4. DISCUSS LOCK & DAM PROJECT

County Manager Poe stated they had asked the Corps of Engineers to assess the structural integrity of the existing Lock, and it is the opinion of the structural engineers that the walls of the Lock are solid and are in no danger of failing. Mr. Poe stated that the structural engineers recommended that the County have a professional engineer assess the conditions of the fisherman's steel walkway.

Commissioner Jennings stated he had heard comments from several people about the boat launching area at the Lock, because there was potential that the Commission was going to do something with the Lock and have not done anything with the boat launching area, which is apparently dangerous. Commissioner Jennings stated this was something that the Parks Authority should take a look at and that the Commission should address the boat launching area. County Manager Poe stated that any improvements to the boat ramp were not a part of the original project. Commissioner Jennings stated that they needed to take a look at this launch site and see if improvements need to be made. County Manager Poe stated we had some County funds for the Lock and Dam that could be redirected if necessary. Commissioner Bennett stated this was a pretty steep ramp and was a little scary. Commissioner Mayes stated that was not the only boat ramp that needed repair and that the rubber around the ramp at Brushy Branch was torn off and is damaging boats. County Manager Poe asked if the Commission wanted to go ahead and cancel the project because as long as they keep deferring, a lot of staff time is spent trying to keep things in order.

Commissioner Mayes made a MOTION to cancel any future improvements and expenditures at the Lock and Dam. SECOND by Commissioner Bennett.

Discussion: Chairman Hufstetler stated that the rules given them by the State and Federal government have made it impossible to proceed and his feeling is that the Commission will be spending money that will get them nowhere if they continue. VOTING:

YES

NO

Commissioner Mayes
" Jennings
" Bennett
Chairman Hufstetler

Motion Carried

**5. DISCUSS DRESSING ROOM CONSTRUCTION
AT THE FORUM**

Assistant County Manager Sammy Rich stated the Commissioners have plans for dressing rooms at The Forum. Mr. Rich explained that there are two options, with total estimates being \$119,295 for Option 1 and Option 2 being \$150,555. Mr. Rich stated that under Option 1 there would be approximately 700 square feet on the kitchen side of The Forum and above that there would be two dressing rooms, this based on the notion of building up instead of out, and would not address the storage issue. Mr. Rich stated under Option 2 there would be two dressing rooms with approximately 700 square feet and that seat Section 202 or 209 would be relocated on top of a new storage area. In other words, we would build storage, relocate the existing bleachers by moving them up so they would be in line, and still have the same side lines around the arena. Assistant Manager Rich stated that under the two options they are gaining more storage, netting a few more seats, and getting better site distance. Commissioner Bennett stated he had talked with an architect about putting storage on top of the dressing rooms and stated this did not make any sense and that storage should be down below and build the dressing rooms on top of the storage. Assistant Manager Rich stated that Option 1 would leave the existing bleachers just like they are, and with Option 2 storage would be built with bleachers on top.

Chairman Hufstetler called for a motion to recess to review the plans. Commissioner Bennett made a MOTION to recess for 15 minutes. SECOND by Commissioner Mayes. VOTING:

YES NO

Commissioner Mayes
" Jennings
" Bennett
Chairman Hufstetler

Motion Carried

Chairman Hufstetler requested the role be called to reconvene the meeting.

YES NO

Commissioner Mayes
" Jennings
" Bennett
Chairman Hufstetler

Motion Carried

Commissioner Jennings stated the Board had reviewed the plans and reached a consensus for Option 2 for the dressing room and storage project which would put the dressing rooms in the area where we currently have storage and build a new storage area under Section 202 and raise the bleachers up to make them more usable and provide a better site line for the floor. He stated the total estimate for this Option is \$150,555, and the money would come from the General Fund account. Commissioner Jennings stated his statement is made as a MOTION to approve. SECOND by Commissioner Mayes.

Discussion: Chairman Hufstetler stated he thought the dressing rooms did not have that much to do with the football team, but when we have tournaments like high school basketball, wrestling, etc. we need additional dressing rooms. VOTING:

YES

NO

Commissioner Mayes
" Jennings
" Bennett
Chairman Hufstetler

Motion Carried

**6. SOLID WASTE AGREEMENT BETWEEN
THE CITY OF ROME AND FLOYD COUNTY
(4/4 VOTE REQUIRED)**

County Manager Poe requested the request for a 60-day Extension of the Solid Waste Agreement between the City of Rome and Floyd County be placed on the Agenda. Commissioner Bennett made a MOTION to place the Solid Waste Agreement between the City and County on the Agenda. SECOND by Commissioner Mayes. VOTING:

YES

NO

Commissioner Mayes
" Jennings
" Bennett
Chairman Hufstetler

Motion Carried

County Manager Poe stated the recommendation from the Solid Waste Committee, is to extend the current agreement 60 days. Mr. Poe added that he and Commissioner Bennett had been negotiating with the City on one major issue they could not agree upon. County Manager Poe stated the City is asking for reimbursement of half the appraised value of the property that Phases 7, 8 and 9 will be constructed upon, and the City is recommending the County pay 50% of whatever the value of that property is determined to be. Mr. Poe stated this was 73 acres and to reimburse the City for their cost of property they bought several years ago would be approximately \$800,000. County Manager Poe stated that the County wants to keep their agreement in tact as it relates to operation of Phases 4 – 6 and therefore is asking for a 60-day extension.

Chairman Hufstetler called for a motion. Commissioner Bennett made a MOTION to authorize extending the existing Solid Waste Agreement with the City of Rome for 60 days. SECOND by Commissioner Jennings. VOTING:

YES

NO

Commissioner Mayes
" Jennings
" Bennett
Chairman Hufstetler

Motion Carried

**7. AUTHORIZE GEORGIA HOMELAND SECURITY
EXERCISE & EVALUATION PROGRAM GRANT
(4/4 VOTE REQUIRED)**

County Manager Poe stated he had met with representatives of Rome-Floyd County Local Emergency Planning Committee, which comes under the Emergency Management Agency, and works with agencies that deal with any type natural disaster, terrorism, or biohazard event. Mr. Poe stated the Committee was putting a training exercise together for next month, and have stated this is a GEMA Grant that would fund the exercise in the amount of \$28,751, at no cost to the County. Technically it is a grant and the checks would be cut by the County, and in order for the County to cut any checks the Commissioners would have to approve and accept the grant in order to budget the expenditure.

Commissioner Bennett made a MOTION to add the Grant Application from the Georgia Homeland Security Exercise & Evaluation Program to the agenda. SECOND by Commissioner Mayes. VOTING:

YES

NO

Commissioner Mayes
" Jennings
" Bennett
Chairman Hufstetler

Motion Carried

Chairman Hufstetler stated the Grant Application from Georgia Homeland Security was now on the agenda and called for a motion. Commissioner Bennett made a MOTION to approve the recommendation of the County Manager for the Georgia Homeland Security Exercise & Evaluation Program. SECOND by Commissioner Mayes. VOTING:

YES

NO

Commissioner Mayes
" Jennings
" Bennett
Chairman Hufstetler

Motion Carried

**XII. ATTORNEY'S REPORT
EXTENSION OF THE AGREEMENT
TO PURCHASE AND SALE
GALEY & LORD, INDUSTRIES
(4/4 VOTE REQUIRED)**

Attorney Manning stated he had one item for consideration concerning the Galey & Lord Water Treatment Plant purchase. Attorney Manning stated this was an extension of the agreement to purchase the plant and would extend the time to close until Friday, December 3rd and recommended the Commission place this item on the Agenda for approval.

Commissioner Jennings made a MOTION to place the Extension of the Agreement to Purchase and Sale of Galey & Lord's Water Treatment Plant on the Agenda. SECOND by Commissioner Bennett. VOTING:

YES

NO

Commissioner Mayes
" Jennings
" Bennett
Chairman Hufstetler

Motion Carried

Chairman Hufstetler stated the item was now on the Agenda and called for a motion. Commissioner Jennings made a MOTION to authorize the Chairman to execute the agreement extension for the purchase of the Galey & Lord Water Treatment Plant. SECOND by Commissioner Bennett. VOTING:

YES

NO

Commissioner Mayes
" Jennings
" Bennett
Chairman Hufstetler

Motion Carried

XIII. OTHER BUSINESS

XIV. ADJOURN

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

YES

NO

Commissioner Mayes
" Jennings

" Bennett
Chairman Hufstetler

Motion Carried

**FLOYD COUNTY BOARD OF
COMMISSIONERS**

CHUCK HUFSTETLER, CHAIRMAN