

September 13, 2005

**REGULAR MEETING
FLOYD COUNTY BOARD OF COMMISSIONERS
September 13, 2005 2:00 P.M.**

PRESENT: Chairman Chuck Hufstetler, Commissioners Tom Bennett, Garry Fricks, 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.

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 Commissioner Fricks.

PUBLIC

PARTICIPATION:

Frank Beacham, 7 Shadowbrook Drive stated that he and some of the neighbors had a meeting the night before with Ms. Hiller and she explained some of these things and they also saw the one article regarding these two issues in the newspaper the day before and he was surprised especially by the road issue. He stated he thought they had a SPLOST, the most recent SPLOST, and the Chulio Road portion was whittled and whittled and whittled and then it was eventually just a 411 intersection thing, then it did not pass so he thought that is that. He stated as far as the road widening goes, he would say that the road does need some work, but the folks who are in the neighborhoods along the way there do not want the County or anyone to do anything that is going to cause more folks to want to drive faster down that road, or to cause folks to want to start trying to get rezonings into light industrial which is what the other issue leads to. Mr. Beacham stated they feel very strongly that that road should lead to residential neighborhoods and that industrial development does not need to occur along Chulio Road, and so you see these two things are kind of tied together in that they have watched what has happened on Highway 411 over the last year or so with the Wal-Mart and the Tractor Supply. They understand those businesses have got to have places to go, and they think 411 is a place for them to go. They would appreciate not making precedent for allowing light industrial which could lead to industrial and etc.. He stated on behalf of himself and the neighbors that he has spoken to, they would urge the county to not set a precedent for some rezoning out there, that they would rather it stay at multi-family residential. Mr. Beacham stated he is a little unclear as to where this piece of property is, he went to the 'gizmo' and 1158 Chulio Road is not the same as zoning map K16-121 so he is a little confused as to exactly where that is, so there could be some procedural problems with that application, but that not withstanding, he would oppose it either way because it is just going to let whatever trucks there are that are delivering things to and taking things away from this warehouse is going to bring them on to Chulio Road. He would just really urge the Commissioners not to decide that let's go do some industrial development down Chulio Road without a lot more input from county citizens. He stated the last thing is more of a question, he would like to somehow become tied in to the plans for whatever it is that they are doing with Chulio Road, and if there is some sort of public forum he needs to attend or a committee he needs to be on, he is right now volunteering to serve the county in whatever way he can to make sure that input of some of the residents out that way are heard.

County Manager Kevin Poe stated he would be glad to meet with him one on one and show him basically all they are looking at doing. He stated they are looking at improving the intersection and adding some turn lanes and try to make that more efficient. Mr. Poe stated as far as the rest of the road, they are looking to upgrade the road to standards of 24 feet of pavement, 6 foot shoulders, with improvements to hills and curves. He stated there is a tremendous amount of traffic on that road. There is a lot more planned development, a lot of residential planned development. It will connect to the bypass at Boyd Valley Road in the future, and they are just trying to make plans to upgrade the road to a standard, safe two lane roadway.

Commissioner Jennings stated just by way of information, his thinking was that they are not looking towards actually going in and doing the work but at some point they may very well need to do that work and so purchasing the right-of-way now since they do have funds in the existing SPLOST is probably a good expenditure of money at today's real estate values, as opposed to trying to do that at sometime in the future. He stated so other than the intersection their thinking is not necessarily to go in next week, or in the next year to make those changes, but to be thinking long term as far as the potential of doing that project. Commissioner Jennings stated the second question regarding location is that the property in question is located behind the nursing home.

Mr. Beacham stated in closing, the way these two things tie together he sees it as if, and he knows the bypass is coming around there at that intersection, there is going to be some pressure to do some changes, there is going to be some pressure to have some things other than a nursing home there and he understands that but let's not do the zoning change now. If we're going to improve the road, let's improve road. If we are going to build the bypass, let's build the bypass, and then we will rezone those places sometime out in the future. He stated let's not start that now, betting on the outcome that the road is going to be improved and the bypass is going to happen. They do not need that pressure right now and he would like it to become that the way to get to that place, if that is going light industrial, is around the perimeter, not through the road. He stated in closing, Mr. Chairman, would it not be great, if they are going to improve that road, to have some bicycle lanes for that road, would it not be great to have some sidewalks for that road, so that it is not simply a place of danger. He stated to that extent, and he knows that we have to stretch pennies wherever we are, but while they are thinking about it let's not think about it without bicycle lanes and sidewalks so that he could actually ride his bicycle outside his neighborhood which is not currently something he is willing to do.

Chairman Hufstetler thanked Mr. Beacham for his comments and stated he would ask the County Attorney, there was a question brought up about whether the parcel was the same or not but along those lines since they allowed some comments, do they allow comments from those in support. County Attorney Tommy Manning stated taking comment on the first of the meeting regarding issues on the agenda is allowed, so if someone else wants to sign up to speak, he thinks that would be appropriate. He stated he thinks the plan was not to formally re-open the hearing since they have already had a public hearing on the matter.

Chairman Hufstetler asked if there was anyone else wishing to speak, seeing none, he stated they will move on to the approval of the minutes.

ADOPTION OF MINUTES:

Chairman Hufstetler asked if the minutes were in order. County Attorney Tommy Manning stated the minutes had been reviewed and were in order. Commissioner Mayes made a MOTION to adopt the minutes of the Regular Meeting of August 23, 2005 as presented. SECOND by Commissioner Jennings. VOTING:

YES

NO

Commissioner Fricks

" Mayes
" Jennings
" Bennett
Chairman Hufstetler

Motion Carried

PROCLAMATIONS:

**CONSTITUTION WEEK,
SEPTEMBER 17-23, 2005:**

Commissioner Jennings presented a Proclamation recognizing September 17-23, 2005 as Constitution Week to Mark Anthony, President of the Rome Chapter Sons of the American Revolution. Mr. Anthony stated the Daughters of the American Revolution also partnered with the Sons of the American Revolution in honoring Constitution Week and our forefathers, and as such there are two public displays one at the Sarah Hightower Library and one at the Rome Area History Museum and the public is invited come by and view one of those and see the display celebrating our Constitution, the Bill of Rights and the Government that has resulted over the past 218 years. Commissioner Jennings thanked Mr. Anthony for his comments.

(Resolution/Proclamation Book, Page 50)

**JOINT CITY/COUNTY PROCLAMATION
RECOGNIZING AUSTIN MOSES:**

Chairman Hufstetler stated this Proclamation has previously been presented by Commissioner Bennett to Mr. Moses.

RESOLUTIONS:

**ADOPT RESOLUTION TO APPROVE
APPLICATION FOR THE 2005 GEFA
RECYCLING AND WASTE REDUCTION
GRANT:**

Chairman Hufstetler stated the Resolution was discussed in Caucus and called for a motion. Commissioner Jennings made a MOTION to Adopt the Resolution before them, to Approve Application for the 2005 GEFA Recycling and Waste Reduction Grant. SECOND by Commissioner Mayes. VOTING:

YES NO

Commissioner Fricks
" Mayes
" Jennings
" Bennett
Chairman Hufstetler

Motion Carried

**ADOPT IMPLEMENTATION OF
THE NATIONAL INCIDENT MANAGEMENT**

SYSTEM:

Chairman Hufstetler stated the second Resolution is to Adopt Implementation of the National Incident Management System. County Manager Kevin Poe stated this was item was discussed at the Joint City/County portion of the Board Retreat related to having a National System of Incident Management in place within our county.

Commissioner Fricks made a MOTION to adopt the Resolution. SECOND by Commissioner Jennings. VOTING:

YES NO

Commissioner Fricks
" Mayes
" Jennings
" Bennett
Chairman Hufstetler

Motion Carried

FIRST READINGS

**(PUBLIC HEARINGS TO BE HELD ON
SEPTEMBER 27, 2005, AT 6:00 PM)**

- 1. FILE #60-2005Z, REQUESTS REZONING FROM S-R (SUBURBAN RESIDENTIAL) TO L-I (LIGHT INDUSTRIAL) TO CONTINUE PRESENT COMMERCIAL AND LIGHT INDUSTRIAL USE ON PROPERTY LOCATED AT 3001 ROCKMART HIGHWAY. ZONING MAP J15Z-106. (PLANNING COMMISSION RECOMMENDATION: APPROVE [VOTE: 7 – 1]):**
- 2. FILE #62-2005Z, REQUESTS REZONING FROM S-R (SUBURBAN RESIDENTIAL) TO M-R (MULTI-FAMILY RESIDENTIAL) TO CONVERT EXISTING MULTI-FAMILY DWELLINGS INTO CONDOMINIUMS ON PROPERTY LOCATED AT 50 THRU 57 ALPINE COURT. ZONING MAP H13X-366. (PLANNING COMMISSION RECOMMENDATION: APPROVE [VOTE: 8 – 0]):**
- 3. FILE #63-2005Z, REQUESTS REZONING FROM S-R (SUBURBAN RESIDENTIAL) TO C-C (COMMUNITY COMMERCIAL) TO USE FOR COMMERCIAL RETAIL CLOTHING STORE ON PROPERTY LOCATED AT 9 PAYNE ROAD. ZONING MAP H13I-152. (PLANNING COMMISSION RECOMMENDATION: TABLE [VOTE: 8 – 0]):**
- 4. FILE #65-2005Z, REQUESTS REZONING FROM S-R**

(SUBURBAN RESIDENTIAL) TO C-C (COMMUNITY COMMERCIAL) WITH SPECIAL USE PERMIT FOR MINI-WAREHOUSES USE ON PROPERTY LOCATED AT 839 BURNETT FERRY ROAD. ZONING MAP G14W – PART OF PARCEL 175. (PLANNING COMMISSION RECOMMENDATION: DENY [VOTE: 8 – 0]):

Chairman Hufstetler stated the Public Hearings on these are to be held on September 27, 2005 at 6:00 P.M.

**PUBLIC HEARINGS
(FIRST READING HELD
AUGUST 23, 2005 AT 6:00 P.M.):**

- 1. FILE #42-2005Z, REQUESTS REZONING FROM M-R (MULTI-FAMILY RESIDENTIAL) TO L-I (LIGHT INDUSTRIAL) FOR OFFICE AND WAREHOUSE STORAGE USE ON PROPERTY LOCATED AT 1158 CHULIO ROAD. ZONING MAP K16-121. (PLANNING COMMISSION RECOMMENDATION: NO RECOMMENDATION [VOTE: 4 – 4]): (NO ACTION TAKEN AUGUST 23, 2005.)**

Chairman Hufstetler stated Item #1 has already had a First Reading and a Public Hearing so this will now be open for discussion or a motion.

Commissioner Fricks asked if Sue Hiller had any more information. Commissioner Bennett stated he thought there was a question about access. Commissioner Fricks stated looking back at the Minutes, Commissioner Jennings said determine how much right-of-way they have out there and could the road be done, who would pay for it and then there was a mention of a site plan but it was not ready for them (*Commissioners*) because it was not drawn to scale.

Assistant County Manager Sammy Rich stated he could share some information about the right-of way. He stated looking at the road inventory Valley View is listed as two tenths of a mile in length from Chulio, with a 40 foot right-of-way, and 16 feet of pavement width. He stated they also do a road ranking and the overall condition is ranked at a 44 out of a 100 scale, with 0 being worst and 100 being best, but that does not necessarily mean the surface would be in bad shape. Chairman Hufstetler asked if 44 was about in the middle. Assistant Manager Rich stated that it is on the low end, not necessarily that the surface would be bad, but just being a narrow road and not necessarily built to hold any kind of large heavy equipment or trucks.

Commissioner Fricks stated Commissioner Jennings also asked about sewer lines, is there enough easement there to increase the size of the road to put in a sewer. Assistant Manager Rich pointed out that Mr. Montgomery dropped off a letter from Leigh Ross, City Water-Sewer Director, that indicates that they could serve the property, and he does not know if that fully answers the question, but he does not know that they had that information at the last hearing.

Commissioner Jennings asked if this were a standard county road, what would be the pavement footage? County Manager Poe responded 22 feet, as far as a standard local type road. Commissioner Jennings asked if it is basically 6 feet short of a standard road. Commissioner Fricks asked how much right-of-way is required for a standard road. County Manager Poe stated he is hoping that, and this is what you see in the ULDC, they require for an open ditch road – 60 feet of right-of-way, 22 feet of pavement and 6 foot shoulders. Commissioner Jennings stated what that does is give you enough room to ditch it and to have utilities, so Leigh Ross is saying there is sewage capacity but the question is can you

get it out, with the amount of right-of-way that they have to the property. County Manager Poe stated he is not sure if the sewer line runs down the right-of-way or if they have an easement to access it. Commissioner Bennett stated it shows on the survey that they have here that it is a 50 foot right-of-way. Assistant Manager Rich stated he understands that it is not uncommon to have that discrepancy, but according to the records that they typically rely on they listed a 40 foot and that is not to absolutely certify that, but looking at their list and then looking at their GIS System, which is based off of the tax records, it confirms it is 40 foot.

Chairman Hufstetler asked if there were any other questions or discussion. Commissioner Fricks asked do they have a site plan. He stated one of the things that he is looking at, and he thinks that what they are trying to do is an acceptable thing in this area, it still concerns him about the road sites but just like Commissioner Bennett brings up a lot of times, when you change something to heavy commercial what is the total potential of such a vast tract. He stated light industrial on over 7 acres could be quite an impact on that little 16 foot road, and the reason he was thinking about site plan is maybe they could draw some conditions on it specific to the site plan or something of that sort. Commissioner Bennett stated what he sees in this case is his proposed use of the property would work on this piece of property and would be compatible with the area even though it might be part of a spot zoning. He stated the biggest problem is that the rules and regulations they have drawn up in the ULDC do not allow them to let him put his business on that piece of property unless they zone it to have other uses like Light Industrial rather than an O-I, or Community Commercial, or something like that – it is forcing us into this because an interpretation – is he is storing stuff on that property.

Commissioner Fricks stated that is kind of what he is saying, he agrees with Commissioner Bennett there but, and he knows that this is probably not the intention, but suppose tomorrow he decides he does not want to build and he puts it on the market for Light Industrial, look at what the capabilities are. Chairman Hufstetler asked Commissioner Fricks if he wanted to make some conditions on that and Commissioner Fricks stated yes, they have actually come and made some conditions on site plans in some of the cases. He thinks that they did that on some mini-warehouses. Commissioner Bennett stated that they can put conditions if they do it as a special use permit, but when you are just doing a zoning they can not, is that correct outside of the requirements of the ULDC. Ms. Hiller stated there are conditions that can be placed on property when making a zoning change, but a use may not be allowed in a zoning district by special use where the use is not authorized in the zoning designated.

Chairman Hufstetler asked what it was that they would be storing that makes a difference. Ms. Hiller stated her understanding of what they would be doing, is that they would have an office and operation of a janitorial type contracting business and as part of that they would be storing their equipment. They would be storing there any chemicals that they use, and they would be storing some things while they were being cleaned, rugs and so on, so that they could do that cleaning on the site. She stated not only is warehousing and storage an L-I (Light Industrial) use. Being a contractor with stored equipment and so on is a L-I (Light Industrial) use, so although they were not specifically mentioned in the ULDC, the Planning Department and the Building Inspection Department slot those in to the appropriate categories. That is the category we feel they belong in based on industrial standards that go beyond Rome and Floyd County. Chairman Hufstetler asked so if you have a store that was just selling things on site, that would be Community Commercial. Ms. Hiller stated that would be Community Commercial, but if they are warehousing, wholesaling, distributing, etc. that is L-I (Light Industrial).

Commissioner Fricks stated this is worst case scenario here but right now if they look at the allowed uses just imagine this it says mobile home manufactured homes sales, and he knows that is just a stretch of saying that but that is completely not a potential use for this property. Commissioner Bennett stated to his knowledge the applicant is not wanting Light Industrial. It is just that it was determined that is what it has to be in order to operate his business. Commissioner Fricks stated there is a lot of uses of a lot of things that they would not want down the road and he does not look at it as much as an individual use as much as he does just re-zoning a piece of property.

Chairman Hufstetler asked Commissioner Fricks if what he wants to do is make it specific to this industry and also to the site plan. Commissioner Fricks stated the size of the lot and the available uses of the lot are tremendous. He stated he does not think that this would have a negative impact on that area at all. Chairman Hufstetler asked if he wanted to make a motion to do this. Commissioner Fricks asked if he could make the motion conditional to the site plan. Assistant Manager Rich stated that Commissioner Fricks might want to condition it on the site plan, but also set forth that no other requirements of the ULDC would be exempted.

Commissioner Jennings asked if the County is also prepared to purchase the additional 20 feet of right-of-way to pave this road to county specifications of 22 feet. Is that part of the county's budget? County Manager Poe stated no. Commissioner Bennett stated it was also not part of his request that they do that; however, he could make that request which they could certainly deny just like they do on a regular basis in the Public Works meeting. Commissioner Jennings stated he thinks that the issue of a 16 foot paved road is an important issue, and he thinks that the county needs to be prepared, if they are going to approve of this to make that road up to standard and if we can't do that then he does not see having Light Industrial business on a road that is poor by county standards. Chairman Hufstetler stated that it is only two tenths of a mile so it is not like people are going to be backed up in both directions. Commissioner Jennings stated it is servicing a nursing home that has staff, and has visitors. Commissioner Bennett stated they use this road to get there now but they are doing that all the time. He had a discussion with a gentleman the last part of this week, and he was talking about his road being too narrow and basically that road must be a 100 year old road in Floyd County. It used to probably be just a clearing, and then it became a wagon trail, then a scraped road, then they put some ditches on it and then it became dusty and muddy and so they put some tar and gravel on it and now they have some asphalt on it. The man is right. Under today's conditions we need to upgrade that and that is something that they brought up in their last Public Works meeting as much as some of their predecessors said about paving all the roads in Floyd County to get people out of the dust and mud, but that may be something that they try to do in the future to work, just like they are doing on Chulio Road. That is another example. Would you have turned down Twickenham? Would you turn down other subdivisions that are being proposed down through there? Commissioner Fricks stated he thinks what Commissioner Bennett is using in comparison is that the uses that expanded is still residential and agricultural. If that is the same road he is thinking about, and it was allowed by just natural growth, they did not have to make a decision whether or not to rezone. Today he believes he would think twice if they came in the midst of that road and they said would you re-zone me Light Industrial 7 acres in the middle of that road, would you do that? Commissioner Bennett stated would you do a 200 house subdivision down there that is going to have 400 cars going in both directions as opposed to 15 trucks. Commissioner Fricks stated what he is saying is if they designed it to that allowable use they would not have to make that decision but would he make the decision, if one of those property owners on that road came down in today would he zone 7 acres Light Industrial. Commissioner Bennett stated he would say that the traffic, with that multi-family site, would probably allow 12-15 units per acre with 1½ cars per unit, which will generate a whole lot more traffic than what this use will as far as noise, dust, other obnoxious probable uses would be an issue to that neighborhood. Light Industrial may allow from a noxiousness standpoint (to invent a word here) but if you are concerned about traffic, he would say this traffic use of the proposed re-zone would be less than what it is already zoned. Commissioner Fricks stated so in that case he (*Commissioner Bennett*) would take a subdivision and zone it Light Industrial on a road like this. Commissioner Bennett stated no, he would not consider re-zoning it Light Industrial except for its adjacent use. He stated he thinks it is going to either wind up, either multi-family, duplex-residential, mini warehouse maybe with special use permit or something like that back there where it is behind an existing nursing home and personal care home. Commissioner Bennett stated he does not like making it L-I. He thinks they discussed that last meeting but the point is, you are either telling me that they are going to have to put apartments there or have to find another business for this property. He thinks this use of the property would be satisfactory as far as the vehicular traffic it is going to generate, as opposed to what it is already zoned for this road and Chulio Road is the only point he is making – so you have to figure under which logic you are trying to assess the zoning. He stated traffic will probably be less intense than what it could be used for unless they can condition it in some way. Yes, it could be more intense use than multi-family unless they are able to restrict it in some way.

Commissioner Fricks stated he looks at it like this to, if they look at it as a total speculation of a piece of property, total speculation, no intended use, if they do not put some kind of conditions on it to a site plan or something it would be the same principal. He stated if it came under a speculation to re-sale at Light Industrial today, would they re-zone it Light Industrial. He stated no unless conditions were placed on the zoning. Commissioner Bennett stated that he thinks he is aiming in a good direction, and he would support conditions.

Commissioner Jennings asked is it possible for them to condition also that the developer would participate in the purchase of right-of-way and road improvements, kind of like an impact fee. This is having an impact on this road because he is hearing that it is not part of the county's plan as far as improving this particular road. It is not high on the list. Chairman Hufstetler asked if he would want those other houses in there to do that to. Commissioner Jennings stated yes. Chairman Hufstetler stated that is something that has not been done in this county. It has been done in other counties, and he doesn't think you can single out one person to do it. Commissioner Bennett stated it is kind of an extension. It is being discussed here much to his chagrin, but it is being discussed because they have several subdivisions out in another part of the county right now. They are into that discussion as to what is going to happen. A man is going to improve his road but some how or another they have to find a way to get it to him. Chairman Hufstetler asked if the Board was ready to take any action.

Commissioner Fricks made a MOTION to approve the change in zoning from M-R (Multi-Family Residential) to L-I (Light Industrial) conditioned upon compliance with all requirements (setbacks etc.) of the ULDC being met; conditioned upon utilization of only the site plan presented that will be part of the record; and upon further condition that the use of the property so zoned shall be restricted to a janitorial contract cleaning service only. Commissioner Fricks asked if changes were desired in the future would they have to come back for re-zoning or what, in case he did want future expansion on the property passed that site plan. Assistant Manager Rich stated since they placed conditions on setbacks, etc., that also precludes the owner from getting a variance from the Appeals Board so they are pretty much locked in to build it they way it is presented. As example, if they are approving it and say it is a 10 foot of setback then they would also be locking it in to do that without coming back to this Board. SECOND by Commissioner Bennett.

Discussion: Commissioner Jennings offered an amendment to the motion to include that the developer participate with the county on the purchase of additional 20 feet of right-of-way on Valley View Drive and participate in the paving of that road to county specifications, which would be 22 feet of pavement, and the participation would be a 50/50 split on the cost.

Chairman Hufstetler stated they have an amendment to the motion offered, and asked if is there a second to the amendment. Hearing none, the discussion reverted back to the original motion. Following discussion, Commissioner Fricks stated he is not going to second the amendment because he thinks it is putting too much of the burden on to the property owner and he does not know what the burden that they are placing on them right now. He stated he wishes they would participate in the expanding the right of way and come up with an idea of about how to do that, but right now he hates to be specific and put too much of the burden back on the property owner. Commissioner Jennings stated he thinks the pressure is appropriate to come to the Public Works Committee, and he thinks Public Works needs to put this road to the top of their agenda. He stated the road is in need of improvement and with increasing traffic, and they have a choice in the situation. VOTING:

YES

NO

Commissioner Fricks

Commissioner Jennings

" Bennett

Chairman Hufstetler

Motion Carried

Commissioner Mayes Abstained

**2. AMENDMENT TO FLOYD COUNTY CODE, SECTION
2-9-74 REGARDING HOTEL/MOTEL TAX:**

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

YES

NO

Commissioner Fricks

" Mayes

" Jennings

" Bennett

Chairman Hufstetler

Motion Carried

Chairman Hufstetler stated the Public Hearing is open, and asked if there was anyone who wishes to speak in support or opposition on this issue. Seeing none, he 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 Fricks

" Mayes

" Jennings

" Bennett

Chairman Hufstetler

Motion Carried

Chairman Hufstetler asked County Attorney Manning to brief them on the amendment. County Attorney Manning stated this is a proposed Amendment to the County Code and his understanding is the DCA is requiring that all of the counties set forth the specific code section that has application with regard to each county and how their Hotel/Motel Tax is used. Commissioner Fricks stated he reviewed the proposed revision, and compared it to our current code, and one of the main changes is the wording in (a) in Section 2-9-74, where it says 'the funds from which taxation shall be used for public purpose of promoting tourism, convention and trade shows' is where the biggest change is and it really just basically refers back to, it does not say can use for public purpose it just says for conventions, trade shows and had that one other thing like that and tourism. He stated it just narrows the field.

Commissioner Jennings stated so, the word public is now in there and it was not in there previously. Commissioner Fricks stated yes, that is the biggest change in the wording right there in that one sentence. County Attorney Manning stated that is new wording. Commissioner Bennett stated this basically dedicates it to promotional tourism, convention and trade shows. Commissioner Fricks stated the difference is it says that 'taxation shall be used for public purpose and for the purpose of promoting, attracting and stimulating development of conventions and tourism in the city'. Commissioner Fricks stated this is saying the public purpose of those things, so basically this allowed use for other public purposes, wording wise,

and this narrows it to the public purpose of these things. He stated that is the only differences that he could tell.

Commissioner Jennings stated it does not say who uses this money, it simply says used for the public purpose. He stated an argument has been made is that that money should be designated for one specific group, as opposed to several groups that are promoting and this does not preclude several groups using the money to promote, as long as you can certify that this is what it has gone for. County Attorney Manning stated his recollection is that there were some state code sections that specifically required that the Convention and Visitors Bureau be specifically designated as the entity who utilizes the funds or promotes tourism. He stated all of these different code sections were tied to dates referencing when a facility like The Forum was constructed, and there were multiple, multiple choices and this Code Section 48-13-51a(3.3) that the county falls under, does not require that hotel-motel tax proceeds be administered through that particular entity.

Chairman Hufstetler asked Commissioner Fricks if he is okay with the language. Commissioner Fricks stated some of the things they need to look at right now concerns whether we they take a percentage of that and put it in to the general fund. Commissioner Jennings stated they take a percentage of it and use it for marketing purposes for conventions, as he understands it. County Manager Poe stated a percentage of the 1% and Commissioner Fricks added it says percentage of the 1% but they do not on the general fund. County Manager Poe stated on the other 6% they split that, they keep 50% that goes to their general fund and 50% goes to CVB and then 75% of the additional 1% goes to The Forum. He stated all the 1% has to be used to market and promote The Forum, 25% goes to the CVB, and 75% of the 1% goes to The Forum.

Commissioner Fricks stated there are two different funds There is one an optional fund of additional 1% tax that is applied towards marketing and promoting The Forum, that is what this B corrects and it kind of defines a little bit more and that is the one they are dividing up 75/25 and the entire amount is going to develop trade show, tourisms and marketing of The Forum at the specific entity. He stated the other is just the general bed taxes collected throughout the state imposed by the state and they split the funding currently 50/50 with the tourism and the rest of it goes in general fund but under this scenario they would have to make sure that they qualify that it goes towards and apply that additional back towards marketing of trade shows. County Attorney Manning stated he thinks that they could modify the proposed language in Section (a) as set forth in the new modified amendment to have language very similar to that in the old code or also insert Section B, and he thinks that will suffice. Commissioner Jennings asked County Attorney Manning to repeat that and County Attorney Manning stated the old language that currently exist in the current code says at the beginning, "The intent of this article is to impose a tax pursuant to authority granted by the general assembly of this state, the funds from which taxation shall be used for public purposes and for the purposes of promoting." This initial language could be used in the amendment before the commission. Chairman Hufstetler stated if they had a problem with it they could come back again. Commissioner Fricks stated the biggest word he has that is missing out of there is 'and'.

Chairman Hufstetler called for a motion. Commissioner Fricks made a MOTION to Amend the Code according to the language which has been modified slightly by the County Attorney and which is now being placed in the record with the minutes. SECOND by Commissioner Bennett. VOTING:

YES

NO

Commissioner Fricks

" Mayes

" Jennings

" Bennett

Chairman Hufstetler

Motion Carried

CHAIRMAN'S REPORT:

1. DISCUSS APPOINTMENTS:

DEPARTMENT OF FAMILY & CHILDREN SERVICES:

Chairman Hufstetler stated they really did not cover this in Caucus but he thinks there was one they were wanting to go ahead and move on and that was DFACS. He stated he believes Jason Free had applied for that. County Clerk Kathy Arp stated they do have a recommendation from Director Ross Collins for that appointment.

Chairman Hufstetler called for a motion. Commissioner Jennings made a MOTION to appoint Jason Free to the Board of the Department of Family and Children's Services (5-year term expires June 30, 2010). SECOND by Commissioner Mayes. VOTING:

YES

NO

Commissioner Fricks

" Mayes

" Jennings

" Bennett

Chairman Hufstetler

Motion Carried

COMMISSIONER'S REPORT:

2. ADMINISTRATIVE/FINANCE COMMITTEE – COMMISSIONER FRICKS, CHAIRMAN

a. Discuss proposed changes to Injury Leave Policy. (Deferred August 23, 2005)

Defer.

1. PUBLIC SAFETY COMMITTEE – COMMISSIONER MAYES, CHAIRMAN

Commissioner Mayes stated he has no report.

2. PUBLIC WORKS COMMITTEE – COMMISSIONER BENNETT, CHAIRMAN

Commissioner Bennett stated he would like for them to be thinking about making some commitment to bring some of the less standard, not substandard but less standard, paved roads in the community to reflect 22 feet of pavement and adequate right-of-way and this will be a long range goal committee. He stated they are going to get a list of the roads and prioritize them and pass that out soon.

3. WATER COMMITTEE – COMMISSIONER JENNINGS, CHAIRMAN

a. Enter into Contract with Graves Service Company to install new casing at the Fulton Road Well Site (estimated cost \$15,000). (Deferred August 23, 2005).

County Manger Kevin Poe requested authorization to proceed with negotiating the contract with Graves Service Company to do a test bore at the Fulton Road Well Site, and to do a test well at the Harmony Road site, and they will come back with an official proposal for action.

Commissioner Jennings made a MOTION to negotiate with Graves Well Drilling Company to complete the test bore at the Fulton Well Site and the test well at the Harmony Road Site, as recommended by the County Manager. VOTING:

YES NO

Commissioner Fricks

" Mayes

" Jennings

" Bennett

Chairman Hufstetler

Motion Carried

1. SPECIAL COMMITTEE REPORTS

a. Consolidation Task Force (Fricks/Hufstetler)

a. Parking Committee (Fricks/Bennett)

County Manager Kevin Poe stated the Parking Committee met and reviewed a proposal from the Downtown Development Authority about managing the parking decks in the downtown area, and they will be getting a formal proposal from Downtown Development Authority for consider.

a. SPLOST Committee

a. Alternative Jail Committee (Jennings/Fricks/Mayes)

a. West Third Street Committee (Fricks)

Commissioner Fricks stated they had a meeting on September 12, 2005, and what is supposed to be the final or close to the final draft of the Memorandum of Understanding was prepared. He asked County Manager Poe to place copies of it and some of the financials, in each of the Commissioners mailbox. He stated once they complete it, the city is going to meet on Friday, September 16, 2005 at 1:00 P.M. in the Sam King Room, to present it to their Commission. He stated it is an open meeting for anyone who wants to attend. He stated they will not be taking any action because we still have to prepare intergovernmental agreements, and a resolution

Chairman Hufstetler stated it looks like there has been some discussion about guaranteeing these bonds and asked Commissioner Fricks if he knows where that stands. Commissioner Fricks stated one of the things was there is no general obligation commitment to support the bonds, and when their bond agent came up here and was talking about the presentation, the agent says these are bonds that are secured by the potential new investment and that is what they are secured by. He was saying they sell at high interest rates, and they are sometimes difficult bonds to sell. He stated that the bond representative came and told the city they could guarantee the bonds. Commissioner Fricks stated he did say before they would get the county to support or sign off on any commitments to back the bonds. He stated that is not a bad option for the city to look at, the county has done it for two entities, and it does reduce the interest rate and it does keep money from flying out town. Commissioner Bennett stated they have guaranteed bonds before and issued them themselves for public entities. Commissioner Fricks stated these bonds basically go to re-build back public entities, the stadium and the recreation facilities, and he knows that it is a different

scenario but personally, he just hates to see money fly out the door. Commissioner Bennett stated so it is not going to be a trade. Commissioner Fricks stated they are trading, but it is not an exact trade. Commissioner Jennings asked about the program management fee apparently after the statement that they made at the joint meeting with the City Commissioners, which they appeared to agree to, that if there was going to be program management, and there probably should be for a project of this nature, that it ought to be an independent party as opposed to the developers and apparently that has come up again. Commissioner Fricks stated yes and there is some discussion, the initial fee was 9% and like he said this thing continues to evolve everyday, and so he is sorry that he has not kept them informed but if he had told them something yesterday it would have been different today and that is really the reason, he is kind of waiting until they get to the end of their deal. He stated a portion of the deal is the City of Rome and Northwest Georgia, LLC, and then he is trying to look at where their involvement plays in on the memorandum. Any requirements that fit them in the memorandum of understanding and so that has been real difficult but he thinks now they are down to the final document and that is why he would like to, sometime during the week, get with them (*Commissioners*) to share it, review the information, tell them where they are at and answer any questions that they might have. He stated there are some things that are required that they may not agree to on there. There are some things that are written into the document and he has made them aware that he is a one of five reporting back to his four other Commissioners, and he can not even tell them how he will stand on it until they look at the overall scheme of things so they might see some things in there that has Floyd County but he has made them very well aware that this will be reviewed. It will be subject to a vote of the full Commission and he is not making any commitment or even implying any commitments on their behalf and he has been very careful about that. County Manager Poe stated it is going to require an intergovernmental agreement between the city and county also. Commissioner Fricks stated there has been an evolution of the management fees and it has taken on about three different evolutions. The latest version, he will be honest with them he was focusing on some other parts and he has not gone on and reviewed that specifically in detail but he will.

CLERK'S REPORT

CONSENT AGENDA:

County Clerk Kathy Arp stated there is one item on the Clerk's Consent Agenda which has been reviewed and is submitted for approval.

Commissioner Bennett made a MOTION to approve the Clerk's Consent Agenda as presented. SECOND by Commissioner Mayes. VOTING:

YES

NO

Commissioner Fricks

" Mayes

" Jennings

" Bennett

Chairman Hufstetler

Motion Carried

1. Tax Refunds:

- a. Dean Gilliland, 16 Summit Dr., Lindale, \$276.18
- b. Richard Advantage Housing, 2611 Shorter Ave. \$446/14
- c. Staples the Office Superstore, PO Box 9268, Framingham, MA, \$839.90

MANAGER'S REPORT:

**1. CONSIDER REQUEST FROM PHIL HART,
COURT ADMINISTRATOR, TO INCREASE
INDIGENT DEFENSE BUDGET:**

County Manager Kevin Poe stated item #1 is a request from Phil Hart, Court Administrator, to increase Indigent Defense Budget to cover the attorney fees related to the Rogers Hearing. He stated the total bill was \$11,900, and recommends that they amend the Indigent Defense Budget by that amount.

Chairman Hufstetler called for a motion. Commissioner Mayes made a MOTION to approve the Manager's recommendation to increase the Indigent Defense Budget. SECOND by Commissioner Fricks. VOTING:

YES

NO

Commissioner Fricks

" Mayes

" Jennings

" Bennett

Chairman Hufstetler

Motion Carried

**2. DISCUSS HIRING ACCG (SELECT BENEFIT
CONSULTANTS) TO PREPARE EMPLOYEE
BENEFIT STATEMENTS FOR ALL COUNTY
EMPLOYEES:**

County Manager Kevin Poe stated item #2 is a proposal from Select Benefit Consultants through ACCG to prepare Employee Benefit Statements for all county employees. He stated the estimated cost is \$11,475 and he recommends that they enter into a contract with ACCG to have these Employee Benefits Statements prepared by Select Benefit Consultants.

Chairman Hufstetler called for a motion. Commissioner Fricks made a MOTION to approve. SECOND by Commissioner Bennett. VOTING:

YES

NO

Commissioner Fricks

" Mayes

" Jennings

" Bennett

Chairman Hufstetler

Motion Carried

**3. AWARD BID FOR RENOVATION OF 3RD FLOOR
AT JUDICIAL CENTER (NEW COURTHOUSE)
(2003 SPLOST):**

County Manager Kevin Poe stated the county received two bids for the renovation of the 3rd Floor at the Courthouse Judicial Center. He stated the low bid was from Pinson's Inc. in the amount of \$221,800 and he would recommend that they approve the low bid from Pinson's Inc.

Chairman Hufstetler called for a motion. Commissioner Bennett made a MOTION to approve the Manager's recommendation. SECOND by Commissioner Jennings. VOTING:

YES NO

Commissioner Fricks
" Mayes
" Jennings
" Bennett
Chairman Hufstetler

Motion Carried

**4. PRESENT STATEMENT OF FINANCIAL POSITION
OF CITIZENS FOR BETTER PARKS PREPARED BY
READ, MARTIN & SLICKMAN, CPAS:**

County Manager Kevin Poe stated item #4 requires no action.

(Statement on file in Clerk's Office)

**5. AWARD CONTRACT FOR NEGOTIATION AND
ACQUISITIONS OF RIGHT OF WAY FOR SEVERAL
ROAD PROJECTS:**

County Manager Kevin Poe stated proposals were accepted to hire a company for negotiation and acquisition of right of way on three county roads; Huffaker Road, Chulio Road and Old Dalton Road, and the low bid came in from Buck Cooper Inc. He stated the amount for Huffaker Road is \$38,750, Chulio Road \$230,000 and Old Dalton Road \$225,000. He recommended they enter into a contract with Buck Cooper Inc., not to exceed the amounts stated, to assist in acquiring right of way on these roads.

Chairman Hufstetler called for a motion. Commissioner Mayes made a MOTION to approve the Manager's recommendation. SECOND by Commissioner Bennett. VOTING:

YES NO

Commissioner Fricks
" Mayes
" Jennings
" Bennett
Chairman Hufstetler

Motion Carried

**6. DISCUSS REQUEST FROM JOE COOK, COOSA RIVER
BASIN INITIATIVE (CRBI), TO ADOPT RESOLUTION
REGARDING FUNDING FOR ENVIRONMENTAL
PROGRAMS:**

County Manager Kevin Poe stated in Caucus they discussed adopting a Resolution regarding funding for Environmental Programs through the State of Georgia's Hazardous and Solid Waste Funds. He stated they have a Resolution that has been endorsed by the ACCG, that has been customized to the particular situation here in Floyd County, and that is for submitted for consideration.

Commissioner Jennings made a MOTION to adopt the Resolution regarding funding for Environmental Programs as presented. SECOND by Commissioner Mayes. VOTING:

YES NO

Commissioner Fricks
" Mayes
" Jennings
" Bennett
Chairman Hufstetler

Motion Carried

7. APPROVE CHANGE ORDER WITH CDB CONSTRUCTION, INC., FOR ADDITIONAL WORK ON THE JUDICIAL CENTER (NEW COURTHOUSE) 1ST FLOOR RENOVATIONS (\$7,355). (2003 SPLOST):

County Manager Kevin Poe stated the next item is a change order with CDB Construction Inc. for additional work on the Judicial Center Courthouse 1st Floor renovations in the amount of \$7,355.

Chairman Hufstetler called for a motion. Commissioner Jennings made a MOTION to approve the change order with CDB Construction for renovations to the tune of \$7,355. SECOND by Commissioner Fricks. VOTING:

YES NO

Commissioner Fricks
" Mayes
" Jennings
" Bennett

Chairman Hufstetler

Motion Carried

8. APPROVE CONTRACT WITH WILLMER ENGINEERING, INC., FOR CONSTRUCTION QUALITY ASSURANCE SERVICES FOR WALKER MOUNTAIN LANDFILL EXPANSION, PHASE VII:

County Manager Kevin Poe stated item #8 is a recommendation from the Joint Solid Waste Commission to approve a contract with Willmer Engineering, Inc. for Construction Quality Assurance Services for Walker Mountain Landfill Expansion, Phase VII.

Chairman Hufstetler called for a motion. Commissioner Bennett made a MOTION to approve the Manager's recommendation for the contract with Willmer Engineering, Inc. He stated this has been discussed in Solid Waste and been investigated pretty thoroughly and it seems to be the best value they can get. SECOND by Commissioner Jennings. VOTING:

YES NO

Commissioner Fricks
" Mayes
" Jennings
" Bennett
Chairman Hufstetler

Motion Carried

**9. APPROVE REVISION TO THE RECREATION
AUTHORITY CAPITAL BUDGET:**

4/5 VOTE REQUIRED

County Manager Kevin Poe stated one other item Commissioner Bennett would like to make a motion related to revising the Recreation Capital Budget.

Commissioner Bennett made a MOTION to place on the agenda an item for discussion or consideration of transfer of funds between Capital Budgets at the Recreation Authority. SECOND by Commissioner Mayes. VOTING:

YES NO

Commissioner Fricks
" Mayes
" Jennings
" Bennett
Chairman Hufstetler

Motion Carried

Commissioner Bennett made a MOTION to transfer \$24,000 of the \$36,000 allocated in Floyd County's Capital Funds Contribution from the Coosa River Trading Post to the Triplex Ballpark at Alto Park. SECOND by Chairman Hufstetler. VOTING:

YES NO

Commissioner Fricks
" Mayes
" Jennings
" Bennett
Chairman Hufstetler

Motion Carried

ATTORNEY'S REPORT:

County Attorney Tommy Manning stated he had nothing to report.

ADJOURNMENT:

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

YES

NO

Commissioner Fricks

" Mayes

" Jennings

" Bennett

Chairman Hufstetler

Motion Carried

COMMISSIONERS

FLOYD COUNTY BOARD OF

CHUCK HUFSTETLER, CHAIRMAN