

September 27, 2005

**REGULAR MEETING
FLOYD COUNTY BOARD OF COMMISSIONERS
September 27, 2005 6:00 P.M.**

PRESENT: Chairman Jerry Jennings, Commissioners Tom Bennett, Garry Fricks, and John Mayes.

OTHERS

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

ABSENT: Chairman Chuck Hufstetler and County Manager Kevin Poe.

CALL TO ORDER: In the absence of Chairman Hufstetler, Vice-Chairman Jennings chaired the meeting and called the meeting to order.

INVOCATION: Commissioner Mayes led the Invocation.

PLEDGE OF

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

**ADOPTION OF
MINUTES:**

Chairman Jennings asked if the minutes were in order. County Attorney Tommy Manning stated the minutes had been reviewed and are in order. Commissioner Mayes made a MOTION to adopt the minutes of the Regular Meeting of September 13, 2005 as presented. SECOND by Commissioner Fricks. VOTING:

YES

NO

Commissioner Fricks

" Mayes

" Bennett

Chairman Jennings

Motion Carried

FIRST READINGS

**(PUBLIC HEARINGS TO BE HELD ON
OCTOBER 11, 2005, AT 2:00 PM)**

- 1. AMENDMENT TO FLOYD COUNTY CODE
REGARDING JUNK MOTOR VEHICLES.**
- 2. AMENDMENT TO FLOYD COUNTY CODE
REGARDING HEALTH AND SANITATION.**
- 3. AMENDMENT TO FLOYD COUNTY CODE
REGARDING OPEN BURNING.**

These Ordinances were removed from First Reading because Commissioners want to consider further and are expected to be placed on First Reading in the future.

**PUBLIC HEARINGS
(FIRST READING HELD
SEPTEMBER 13, 2005 AT 6:00 P.M.):**

- 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]):**

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

YES	NO
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Commissioner Fricks
" Mayes
" Bennett
Chairman Jennings

Motion Carried

Chairman Jennings asked if there is anyone present to speak either in favor or against this rezoning. Chairman Jennings stated the procedure is to allow those in favor to speak up to ten minutes, those who are opposed to speak for up to ten minutes, then those in favor may rebut any arguments of those opposed. He asked Ms. Sue Hiller, Director, Rome-Floyd Planning Department to review the request.

Ms. Hiller stated that to the south there are a combination of commercial and light industrial uses. The property fronts on both Chateau Drive and on the Rockmart Highway. It was zoned S-R when it was already developed with a combination of uses that include a timber business, gas storage and distribution, office and commercial use, so there are uses on the property that range from heavy industrial to almost office institutional in character. She stated in October of 2001 the applicant applied to rezone this property to H-I to accommodate those existing uses and the Planning Commission recommended against that on a vote of 8 – 1. The County Commissioners followed the recommendation of the Planning Commission and denied that request. She stated shortly after that, the County Commissioners adopted a policy and then an amendment to the code that would allow expansion of non-conforming uses. She stated since that has happened, the uses that continue on the property can continue to exist and they can expand regardless of what the zoning of the property is. She stated the main difference that would come from rezoning this from S-R to L-I is that any new businesses that would be located on the property would be uses that are allowed in the L-I (Light Industrial) zoning district. Any new uses would have to comply with the S-R zoning, and it is highly unlikely that with commercial uses to the north and light industrial uses to the south, frontage on a highway, and other frontage on a fairly busy street that residential development would occur on this site. She stated for those reasons it does not appear that rezoning this to L-I would have additional impacts on this neighborhood. Not only would any new zoning have to meet the use requirements of L-I, it would have to meet the setback and buffering requirements. She stated at the Planning Commission meeting the applicant spoke on his behalf and there was no one there to speak in

opposition. This comes to you with a recommendation from the Planning Commission, with a vote of 7 – 1, to approve the requested rezoning.

Support: Jamie McCord, 2 Saddle Trail, stated he is here to tell the Board that they agree with the staff recommendation. They do not have any plans to change the property. They are just trying to get it into a legal non-conforming state.

Commissioner Mayes made a MOTION to close the Public Hearing. SECOND by Commissioner Bennett. VOTING:

YES NO

Commissioner Fricks
" Mayes
" Bennett
Chairman Jennings

Motion Carried

Commissioner Mayes made a MOTION to approve the request for rezoning to L-I (Light Industrial). SECOND by Commissioner Fricks. VOTING:

YES NO

Commissioner Fricks
" Mayes
" Bennett
Chairman Jennings

Motion Carried

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]):**

Commissioner Mayes made a MOTION to open the Public Hearing. SECOND by Commissioner Bennett. VOTING:

YES NO

Commissioner Fricks
" Mayes
" Bennett
Chairman Jennings

Motion Carried

Chairman Jennings asked if there is anyone here to speak to this rezoning request. Seeing none he asked Ms. Hiller for a review of the request.

Ms. Hiller stated the subject property is surrounded by C-C, commercial uses, to the north and to the west there is a movie theatre. She stated the uses to the south and east that are all zoned S-R are a combination of single-family dwellings, duplexes, and multi-family residential. She stated services and utilities are available. The road to the west is actually a private road that goes back to the trailer court, and the circle to the west is a public cul-de-sac on Blankenship Place. She stated to the commercial property to the north actually hinges on light industrial. To the south a mixture of residential uses, to the east is a private road that actually goes back to a manufactured home park. She stated the subject property is currently developed with two buildings. Each of them has four units, and they are currently being rented. She stated the applicant came in and talked to them about possibly making these into condominiums. In other words, instead of renting them they would sell the units, but they would sell only the interior space. There would still be an association or a manager that would manage the grounds and the exteriors of the building.

Commissioner Mayes asked Ms. Hiller when you turn to condominiums he thought you have to have a firewall between them and separate plumbing. She stated they will have to do some retrofitting. At a minimum they would have to have two-hour fire rated wall between the units. She stated there may also be some requirements about the utilities. She stated in any case, the applicant felt that he would be able to retro-fit these buildings to meet all the requirements in order to 'condo' them, and even if he does not, as apartments they should be zoned M-R since this is an area of mixed use. She stated the applicant was at the Planning Commission meeting and spoke on his own behalf. He indicated that there were tenants in the building who had approached him and asked if it would be possible to purchase the units that they live in and that is why he is pursuing this option. She stated there was nobody there that spoke in opposition, and the Planning Commission recommends approval by a unanimous vote.

Chairman Jennings called for a motion to close the Public Hearing. Commissioner Mayes made a MOTION to close the Public Hearing. SECOND by Commissioner Fricks. VOTING:

YES NO

Commissioner Fricks
" Mayes
" Bennett
Chairman Jennings

Motion Carried

Chairman Jennings called for a motion. Commissioner Bennett made a MOTION to approve the rezoning from Suburban Residential to Multi-Family Residential on File #62-2005Z. SECOND by Commissioner Mayes. VOTING:

YES NO

Commissioner Fricks
" Mayes
" Bennett
Chairman Jennings

Motion Carried

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]):**

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

YES NO

Commissioner Fricks
" Mayes
" Bennett
Chairman Jennings

Motion Carried

Chairman Jennings stated called for a motion to close the Public Hearing. Commissioner Mayes made a MOTION to close the Public Hearing. SECOND by Commissioner Fricks.

Chairman Jennings asked if there is anyone to speak in favor or against this rezoning request. Seeing none he asked the Clerk to call the roll. VOTING:

YES NO

Commissioner Fricks
" Mayes
" Bennett
Chairman Jennings

Motion Carried

Chairman Jennings called for a motion. Commissioner Bennett made a MOTION to refer back to the Planning Commission File #63-2005Z. SECOND by Commissioner Mayes. VOTING:

YES NO

Commissioner Fricks
" Mayes
" Bennett
Chairman Jennings

Motion Carried

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 Jennings called for a motion to open the Public Hearing. Commissioner Bennett made a MOTION to open the Public Hearing on File #65-2005Z. SECOND by Commissioner Fricks. VOTING:

YES NO

Commissioner Fricks
" Bennett
Chairman Jennings

Commissioner Mayes Abstained

Motion Carried

Chairman Jennings asked Ms. Hiller to give a presentation. Ms. Hiller stated to the north, across the street is residential property, east is residential property, and to the west are rural residential properties as well. She stated the subject property is surrounded by properties that are zoned S-R (Suburban Residential) and most predominately developed with rural and residential types of uses. She stated they do have a site map that indicates that there is enough room to do the two buildings, the setbacks, and the vegetated buffer. It does not show how storm water management would be handled, but it appears that there would be room to do that on the property. She stated granting the rezoning would result in a spot zoning. It would also result in an encroachment of a commercial use in to this area. She stated in January of 2005 there was request before the Planning Commission and then before the Board of Commissioners to rezone property at 811 Burnett Ferry Road which is very close to this for mini-warehouses and that request was denied. She stated the discussion at that time centered around the fact that the adverse impacts which residents usually ascribe to mini-warehouse use when they do complain about it are the traffic, sometimes there is activity at night, there is lack of onsite management of these facilities, security lights that cause bright light pollution and sometimes the unsightliness as well. She stated there are some residents who apparently do appreciate the convenience of having them there, and at the Planning Commission meeting they discussed possible conditions that might make mini-warehouses more acceptable or more appropriate in a residential area. She stated the applicant in this case did not appear at the Planning Commission meeting, and they had some phone calls from some of the surrounding property owners prior to the Planning Commission meeting. A petition signed by surrounding property owners has been presented asking you to deny this request. She stated this comes from the Planning Commission with a unanimous recommendation that you deny this request.

Chairman Jennings asked if there was anyone present to speak in favor or in opposition of the request.

Oppose: Clive Baker, 832 Burnett Ferry Road, stated on the plat of 839 Burnett Ferry Road it shows it is only 1.29 acres. He stated there is a ditch that runs behind where he is showing those two buildings, and there is no way – it is over a ten foot drop from the front of the road to the backside of his place – for a ditch and he could not build two buildings on that property because this only says 250 on the road frontage, 200 on the backside of the lot. Mr. Baker stated he just thinks this should be turned down and thanked the Board for their time.

Chairman Jennings thanked Mr. Baker for his comments and called for a motion to close the Public Hearing. Commissioner Bennett made a MOTION to close the Public Hearing on File #65-2005Z. SECOND by Commissioner Fricks. VOTING:

YES NO

Commissioner Fricks
" Bennett
Chairman Jennings

Commissioner Mayes Abstained

Motion Carried

Chairman Jennings called for a motion to approve or deny this zoning request. Commissioner Bennett made a MOTION to deny the request for rezoning on File #65-2005Z. SECOND by Commissioner Fricks. VOTING:

YES NO

Commissioner Fricks
" Bennett
Chairman Jennings

Commissioner Mayes Abstained

Motion Carried

Commissioner Mayes stated for the record his reason for abstaining is because he is a competing business. He stated he owns mini-warehouses also so he abstained to make sure that there was no conflict.

CHAIRMAN'S REPORT:

1. DISCUSS APPOINTMENTS:

HIGHLAND RIVERS COMMUNITY SERVICE BOARD

Chairman Jennings called for a motion. Commissioner Bennett made a MOTION to appoint Milton Tippin, Jr. to the Highland Rivers Community Service Board (2-year term expires June 30, 2007). SECOND by Commissioner Mayes. VOTING:

YES NO

Commissioner Fricks
" Mayes
" Bennett
Chairman Jennings

Motion Carried

COMMISSIONER'S REPORT:

2. ADMINISTRATIVE/FINANCE COMMITTEE – COMMISSIONER FRICKS, CHAIRMAN

- a. **Discuss proposed changes to Injury Leave Policy. (Deferred August 23, and September 13, 2005)**

Defer

- a. **Budget Amendments.**

Commissioner Fricks submitted an Amended Budget for 2005. He stated they reviewed most of the items in the Caucus Session. Commissioner Fricks made a MOTION to approve the amended budget as written. SECOND by Commissioner Bennett. VOTING:

YES

NO

Commissioner Fricks

" Mayes

" Bennett

Chairman Jennings

Motion Carried

2. PUBLIC SAFETY COMMITTEE – COMMISSIONER MAYES, CHAIRMAN

Commissioner Mayes stated he has no report.

3. PUBLIC WORKS COMMITTEE – COMMISSIONER BENNETT, CHAIRMAN

Commissioner Bennett stated he has no report.

4. WATER COMMITTEE – COMMISSIONER JENNINGS, CHAIRMAN

a. Approve Contract with Utility Service Company for Demolition of Water Tanks.

Chairman Jennings stated they have had some discussion over the last several County Commission meetings about the demolition of several water tanks that are not in use in the county. He made a MOTION to approve the contract with Utility Service Company for the demolition of these water tanks on the condition that the access of the Glenwood Water Tank be worked out with the owner consistent with the ULDC Requirements and on the condition the title to the Glenwood Water Tank property be conveyed to the county. Chairman Jennings clarified his MOTION to include that the access and title to Glenwood Tank property be conveyed to the county. SECOND by Commissioner Mayes. VOTING:

YES

NO

Commissioner Fricks

" Mayes

" Bennett

Chairman Jennings

Motion Carried

a. Approve Contract with Graves Service Company for Drilling Test Wells at Fulton Road and Harmony Road.

Chairman Jennings stated the second item for the Water Committee is to approve the contract with Graves Service Company for drilling test wells at Fulton Road site and the Harmony Road site. He noted that Graves is upholding a fee schedule that they have used in previous drilling, with the only difference is a 5% fuel service charge that is above previous contracts. He made a MOTION to approve the Graves Contract as presented. SECOND by Commissioner Bennett. VOTING:

YES

NO

Commissioner Fricks
" Mayes
" Bennett
Chairman Jennings

Motion Carried

a. Discuss Revised Watershed Agreement for Big Cedar Creek.

Chairman Jennings stated in Caucus they discussed the Revised Watershed Agreement for Big Cedar Creek with NRCS (National Resource Conservation Service). He stated this should lead to some Federal Funding to implement some best management practices primarily with the agricultural community along the creek. Chairman Jennings made a MOTION to approve the Revised Watershed Agreement and authorize the Chairman to sign that agreement. SECOND by Commissioner Mayes. VOTING:

YES NO

Commissioner Fricks
" Mayes
" Bennett
Chairman Jennings

Motion Carried

2. SPECIAL COMMITTEE REPORTS

a. West Third Street Committee (Fricks)

Commissioner Fricks stated that a further update on the West Third Committee will be coming as soon as they are presented a final draft of the Memorandum of Agreement. Chairman Jennings stated their plan is to review the final Memorandum of Agreement, and also to work on the conditions of the Intergovernmental Agreement between the County and the City of Rome.

a. Consolidation Task Force (Fricks/Hufstetler)

No report.

a. Parking Committee (Fricks/Bennett)

No report.

a. SPLOST Committee

No report.

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

Commissioner Mayes stated he thinks they need to set up a meeting date for their first Alternative Jail Committee, or at least a brain storming session, so they can get started maybe some time next week. Chairman Jennings stated in that regard, he has had some conversations with Judge Matthews on the drug court idea and how that would fit into this Alternative Jail program. As the appointed Chairperson he will work on making that happen. Commissioner Fricks stated it would be good if they could just get a concept and develop the concept fully and present it.

CLERK'S REPORT

CONSENT AGENDA:

Chairman Jennings called for a motion to approve the items on the Clerk's Consent Agenda. Commissioner Mayes made a MOTION to approve the Clerk's Consent Agenda as presented. SECOND by Commissioner Bennett. VOTING:

YES NO

Commissioner Fricks
" Mayes
" Bennett
Chairman Jennings

Motion Carried

1. Tax Refunds:

- a. Blockbuster Inc., 6363 N. State Highway 161, Irving, TX, \$157.61.

MANAGER'S REPORT:

1. AWARD BID FOR SHANNON WATER TREATMENT PLANT:

Assistant Manager Sammy Rich recommended awarding the bid to Willow Construction, Inc. in the amount of \$881,175, for the work and completion at the Shannon Water Treatment that was acquired from Galey and Lord. The County has a GEFA low interest loan for \$1.3 million and any remaining funds would come out of the Renewal and Extension Fund of the Water Department.

Commissioner Bennett made a MOTION to award to the low bidders the work on the White Oak Trail Pump Station (*Shannon Water Treatment Plant*) in the amount of \$881,175 to Willow Construction Company. SECOND by Commissioner Mayes. VOTING:

YES NO

Commissioner Fricks
" Mayes
" Bennett
Chairman Jennings

Motion Carried

2. APPROVE CHANGE ORDER FOR ADDITIONAL CONCRETE FINISHING WORK ON RECREATION SPLOST PROJECTS (2003 SPLOST):

Assistant Manager Sammy Rich stated item #2 is a change order with Doug Russell Concrete Company. He stated apparently they had given us a really great price to do the concrete finish work on some of their Recreational SPLOST Projects and this change order would be in the amount of \$16,000. Commissioner Bennett stated they have actually gone through and revised the amount of concrete to be poured

and the price would actually be in the amount of \$15,216. He stated it is a reasonable price to do this work. He stated it is a continuation of a contract that they already have. Commissioner Bennett made a MOTION to approve the amount of \$15,216 to continue the concrete work. SECOND by Commissioner Fricks. VOTING:

YES

NO

Commissioner Fricks

" Mayes

" Bennett

Chairman Jennings

Motion Carried

3. CANCEL CONTRACTS FOR PURCHASE OF PLAYGROUND EQUIPMENT AND SHELTERS FOR NORTH FLOYD PARK PER MEMO FROM MIKE LOVELY (2003 SPLOST):

Assistant Manager Sammy Rich stated a recommendation to cancel contracts for the purchase of Playground Equipment and Shelters for the North Floyd Park has been presented. He stated the affect of this action would be to reduce P.O. # 50835 from the amount \$35,580 to the reduced amount of \$17,790 and that is submitted for approval.

Chairman Jennings called for a motion to cancel the contracts. Commissioner Bennett made a MOTION to cancel the contracts for the purchase of Playground Equipment and Shelters for the North Floyd Park. SECOND by Commissioner Mayes.

Discussion: Commissioner Fricks stated that he has not seen that and he just wanted to make sure they were not exposing themselves to some kind of claim. Commissioner Bennett stated he did not think so. They had checked and these were under purchase order type scenario and have not been entered into production for these parks. Basically they are just trying to adjust to stay in a budget to complete that park to a point and then reassess what it is going to truly cost them to finish it. They have already checked that out with the supplier and that is acceptable. Commissioner Fricks asked if they were keeping the ones at Midway Park. Commissioner Bennett stated yes. Commissioner Bennett stated they have to two picnic shelters at Midway and they will have one at North Floyd Park. VOTING:

YES

NO

Commissioner Fricks

" Mayes

" Bennett

Chairman Jennings

Motion Carried

4. CONSIDER REQUEST FROM JOE JOHNSTON, CLERK OF SUPERIOR COURT, TO TRANSFER FUNDS TO COVER COST OF PURCHASING PLAT CABINETS:

Assistant Manager Sammy Rich stated a request has been received from the Clerk of Superior Court, Joe Johnston, who would like to transfer funds to cover the purchase of plat cabinets. He stated this will entail a transfer of \$590 from Data Processing Account, and this is submitted for approval.

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

YES

NO

Commissioner Fricks
" Mayes
" Bennett
Chairman Jennings

Motion Carried

**5. AUTHORIZE CREATION OF AN ASSISTANT FINANCE DIRECTOR
POSITION IN THE FINANCE DEPARTMENT:**

Assistant Manager Sammy Rich stated item five is being deferred to the Administrative and Finance Committee.

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 Bennett, SECOND by Commissioner Mayes, that the meeting be adjourned. VOTING:

YES NO

Commissioner Fricks
" Mayes
" Bennett
Chairman Jennings

Motion Carried

COMMISSIONERS

FLOYD COUNTY BOARD OF

CHUCK HUFSTETLER, CHAIRMAN