

October 24, 2006

**REGULAR MEETING  
FLOYD COUNTY BOARD OF COMMISSIONERS  
October 24, 2006 6:00 P.M.**

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

**OTHERS**

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

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

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

**PLEDGE OF**

**ALLEGIANCE:** The Pledge of Allegiance was led by Commissioner Fricks.

**PUBLIC PARTICIPATION:**

**Serpentfoot, 324 Forsyth Street NE**, stated she will ask them not to vote for that parking deck. She stated she wants them to vote against it. If they do not she will serve them a letter that she will bring suit because they are cheating the people of this county if they help some people. She stated Mr. Levy, with Hawthorne Suites, is going to be the main beneficiary of that parking deck, and Northwest Georgia LLC is going to be a main beneficiary if they develop over there on West Third. She stated that is going to ruin one of the most historic spots in Rome Georgia if they develop West Third Street. It is going to be ruining the spot where John Ross, principal chief of the Cherokees, lived as first postmaster in Rome. They are going to be destroying a historic site and it is a shame if it is going to be in the shadow of the Floyd Hospital sign back there, little tiny thing. She stated that is a shame. When they build that parking deck it is going to help Northwest Georgia LLC. It is going to help Mr. Levy there with the Hawthorne Suites. She stated if these two groups were impoverished, if they were homeless, she would say yes help them. She stated Mr. Levy with Hawthorne Suites is not impoverished. He is not homeless. He does not need desperate help. She stated the people of this county also do not need to help Northwest Georgia LLC, when they are already cheating them out of all that advertising real cheap at the State Mutual Stadium. She stated they ought not to have to pay millions of dollars, and she does not want to have to walk from the Hawthorne Suites to The Forum. She likes to park close to where she is going to be, she does not want to walk across there. She stated it is ridiculous. It is foolish to put a garden in the middle of The Forum parking lot and for them to have to walk down there from the Hawthorne Suites to park to go to The Forum. She stated the people of this county are being cheated to help a few downtown business people. She stated it is just like the SPLOST. She stated three of them (*Commissioners*) are supposed to represent the people of the unincorporated area of this

county, but three fourths or more of that SPLOST is just to help a few downtown business people. She asked why can't people all over the county benefit from something and why must everything come to Rome. Are they going to have to move their county seat back to Livingston to keep from being cheated. She stated the people of this county deserve equal rights, equal benefits from this SPLOST. She stated that is illegal and if they destroy their parking lot at The Forum to put a garden in there and to help Mr. Levy with his parking down at the Hawthorne Suites, they are inconvenienced, have to walk further to parking and have to spend millions of dollars for something that is wrong. She asked them to vote against it, and stated if they do not she will serve them a letter that she will try to stop it in court.

**ADOPTION OF  
MINUTES:**

Chairman Mayes asked if the minutes were in order. County Attorney Tommy Manning stated the minutes had been reviewed and were in order. Commissioner Hufstetler made a MOTION to adopt the minutes of the Regular Meeting of October 10, 2006 as presented. SECOND by Commissioner Bennett. VOTING:

YES NO

Commissioner Fricks  
" Hufstetler  
" Jennings  
" Bennett  
Chairman Mayes

Motion Carried

**PROCLAMATIONS:**

**STUDENTS AGAINST DESTRUCTIVE  
DECISIONS (SADD) DAY:**

Commissioner Hufstetler presented the Proclamation proclaiming Thursday, November 2, 2006 as SADD Day. Randie Wheeler, Pepperell High School SADD President, stated right now they are just trying to help students make the right decisions and stop them from ruining their lives. She invited everyone to the SADD Day Celebration at Pepperell High School on November 2, 2006 at 7:00 P.M. LeAnna Davis, SADD Vice President and Michael Woodall, SADD Public Relations Director, were also present. Mr. Woodall thanked the Board for the proclamation and everything that they have done for them.

(Proclamation/Resolution Book, Page 89)

**HOMELESS AWARENESS MONTH:**

Commissioner Jennings presented Melanie Watson with a Proclamation recognizing November as Homeless Awareness Month. Ms. Watson stated she is school social worker for the Floyd County Schools and the Homeless Education Liaison. She ensures that the school system enrolls homeless children and youth and gets them appropriate services that they need such as counseling, tutoring, and educational supplies. She stated currently they have 500 kids identified as homeless in Floyd County and they are actively serving over 100 of them.

(Proclamation/Resolution Book, Page 90)

**SECOND READINGS/PUBLIC HEARINGS:  
(FIRST READINGS HELD OCTOBER 10, 2006)**

- 1. FILE #102-2006Z, REQUEST REZONING FROM S-R (SUBURBAN RESIDENTIAL) TO C-C (COMMUNITY COMMERCIAL) FOR EXISTING COMMERCIAL (BEAUTY SHOP) USE ON PROPERTY LOCATED AT 282 OLD CALHOUN ROAD, SHANNON. ZONING MAP M11X – PARCEL 319. (PLANNING COMMISSION RECOMMENDATION: APPROVE WITH CONDITION THAT IT CAN ONLY BE USED FOR A BEAUTY SHOP OR ANYTHING WITHIN S-R ZONING. [VOTE: 8 – 0]):**

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

YES NO

Commissioner Fricks  
" Hufstetler  
" Jennings  
" Bennett  
Chairman Mayes

Motion Carried

Chairman Mayes stated the Public Hearing is now open and asked Sue Hiller, Planning Department Director, for a review of the request. Ms. Hiller stated the subject property is located to the east of Old Calhoun Road, and to the east of the commercial strip that is between the Calhoun Road and the Old Calhoun Road. She stated this is essentially a residential district, even though commercial property across Old Calhoun is zoned commercially, but used for single-family residential. She stated this is an area where all services and facilities are available. She stated as a legal non-conforming use this beauty shop could continue to operate indefinitely unless it closes for a period of 12 months. She stated as sometimes happens with these legal non-conforming uses the owner wants to sell them. She stated sometimes when they try to

sell it the finance companies are sometimes not anxious to lend money on a non-conforming use, and that is why they are trying to get it rezoned to suit its use as a commercial beauty shop. She stated because it would be in this residential area, and something of a spot zone, the Planning Commission has some concerns about the other kinds of commercial uses that could go in there once it was rezoned and that is why they put the condition on it that it comes to the Board with. She stated it can be used as a beauty shop or it can revert to S-R (Single-family Residential) uses. That comes with a unanimous vote to approve.

Commissioner Jennings stated actually the road itself is a fairly minimal road and he thinks also the parking was an issue. Ms. Hiller stated this road is classified as a local road. The parking that exists there, there is not very much of it, backs out and it is not paved. She stated it would not meet their zoning requirements today. She stated if someone were to try to redevelop this property they would have to bring it up to the current codes and standards. She stated however, that is a decision that Building Inspection makes and if it is simply a continuation of an existing use it would be grandfathered in the way it stands. Commissioner Jennings stated so without doing anything they can continue the operation. She stated they can, the problem comes up if they try to sell it and get financing to do that. Commissioner Jennings asked back there behind the concrete building, is there a residence. Ms. Hiller stated there is a residence to the north and there is a residence to the south. Ms. Hiller stated the current owner wants to get out of the beauty shop business and sell the property. Commissioner Fricks asked Ms. Hiller if she is saying that if the owner sold the property she could not sell and continue that same use. Ms. Hiller stated no, the use could continue. As long as it does not discontinue for 12 months or more it goes on indefinitely. She stated there is not a problem with that, but sometimes mortgage companies do not want to finance a buyer if it is a non-conforming use so that is where the problem comes in. Commissioner Jennings stated the shop itself does not meet their code standards. He stated it does not have parking. It is on a minimal road. Commissioner Bennett stated but it has been used this way for years. Commissioner Jennings stated and it can continue to be used.

Assistant Manager Rich stated one issue he would like to point out is they have an amendment to expand a non-conforming use, so on one end it is almost surprising that a finance company would be reluctant, but the other issue that they did not address with that amendment is if the property were to burn down or if they stopped using it for a period of 12 months, they could not replace it under the current code. Although they can expand non-conforming use, those two issues are still existing and that is what would drive a finance company to request this. Ms. Hiller stated any redevelopment, any change in use, any new construction, would kick in the requirement to comply with the current code, but grandfathering means that even if it is a non-conforming use with non-conforming parking and development standards it can continue to operate the way it is.

Chairman Mayes asked if there is anyone here to speak in support or opposition of this item. Seeing none, Commissioner Hufstetler made a MOTION to close the Public Hearing. SECOND by Commissioner Bennett. VOTING:

YES NO

Commissioner Fricks  
" Hufstetler  
" Jennings  
" Bennett  
Chairman Mayes

Motion Carried

Commissioner Bennett made a MOTION to rezone from S-R (Suburban Residential) to C-C (Community Commercial) File #102-2006Z with the condition that it can only be used for a beauty shop or anything within S-R (Suburban Residential) zoning. SECOND by Commissioner Hufstetler. VOTING:

YES NO

Commissioner Fricks  
" Hufstetler  
Commissioner  
Jennings  
Commissioner Bennett  
Chairman Mayes

Motion Carried

- 2. FILE #103-2006SUP, REQUEST SPECIAL USE PERMIT FOR CONSTRUCTION OF CIVIC/SERVICE/ FRATERNAL CLUB (MASONIC LODGE) IN S-R (SUBURBAN RESIDENTIAL) ZONING DISTRICT ON PROPERTY LOCATED ON ALABAMA HIGHWAY. ZONING MAP G13W – PARCEL 303 (PART). (PLANNING COMMISSION RECOMMENDATION: APPROVE WITH CONDITION OF PROVIDING PLAT SHOWING DIVISION OF PROPERTY [VOTE: 8 - 0]):**

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

YES NO

Commissioner Fricks  
" Hufstetler

" Jennings  
" Bennett  
Chairman Mayes  
Motion Carried

Chairman Mayes stated the Public Hearing is now open and asked Sue Hiller, Planning Department Director, for a brief overview. Ms. Hiller stated the subject property is used residentially with residential property to the north. She stated to the east is zoned S-R but it is a pasture, undeveloped land, and to the west is a church and cemetery. She stated the ULDC acknowledges that some uses may be appropriate in this residential area but it does them on a case-by-case basis and gives them a chance to review them and that is where the Special Use Permit comes in. She stated it also puts some limitations on where they can locate the building and parking lot on this lot. All of the property lines have to be a minimum of 15 feet away. She stated the site plan that was submitted for this project shows that on the two sides, the west side and that little bit of south that is adjacent the cemetery, it would only be 25 feet off. The applicant has obtained a variance from the Zoning Board of Appeals that would allow them to be 25 feet off only on those two sides. She stated the only condition placed on this by the Planning Commission is that the plat be recorded. This lot will actually be split into two pieces and the Mason's will build on the western side of the property and the eastern side will be something else. Commissioner Jennings asked Ms. Hiller what did she mean will be something else. Ms. Hiller stated whatever it will be in the future. Commissioner Bennett stated it is still going to be zoned suburban residential. Ms. Hiller stated it is currently undeveloped and it is zoned S-R, so whatever they can do within that or they would have to rezone it. She stated the ULDC does address civic associations based on their square footage, so whatever that requirement is that is what they will have to provide, and it has to be paved and landscaped and so on.

Chairman Mayes asked if there is anyone here to speak in support or opposition of this item.

**Robert Ozment, 3900 Mt. Alto Road,** stated this is the Cherokee Lodge moving off of Broad Street. He stated there will be about 2.2 acres in the property so there will be plenty of room for parking, and other activities that they may have. He stated he thinks they will be a compatible neighbor to the church and the community.

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

YES NO

Commissioner Fricks  
" Hufstetler  
" Jennings  
" Bennett  
Chairman Mayes

Motion Carried

Commissioner Fricks made a MOTION to approve with condition of providing a plat showing the division of property, as recommended by the Planning Commission. SECOND by Commissioner Bennett. VOTING:

YES NO

Commissioner Fricks  
" Hufstetler  
" Jennings  
" Bennett  
Chairman Mayes

Motion Carried

**CHAIRMAN'S REPORT:**

No Report.

**COMMISSIONER'S REPORT:**

**1. Administrative/Finance Committee – Commissioner Fricks, Chairman**

No Report.

**2. Public Safety Committee – Commissioner Bennett, Chairman**

No Report.

**3. Public Works Committee – Commissioner Mayes, Chairman**

No Report.

**4. Water Committee – Commissioner Jennings, Chairman**

**a. Discuss Water Negotiations**

Commissioner Jennings stated in regards to the Alabama, Coosa and Tallapoosa water negotiations that they understand (*Georgia*) Governor Perdue and (*Alabama*) Governor Riley are having over the allocation of water, we continue to be concerned about the amount of water that would potentially be withdrawn from Lake Allatoona going into the Atlanta area. A letter has been drafted to Governor Perdue that we here in the Coosa River Basin are concerned about interbasin transfers. The letter recommends that if water is withdrawn from the Coosa River Basin that it be returned to the Coosa River Basin as highly treated wastewater. He stated obviously their

concern is without the return of the water they would lose a significant amount of water, potentially from the Coosa River Basin, which would affect the county's water withdrawals.

Commissioner Jennings made a MOTION to authorize the chairman to sign this letter and mail it to the Governor. SECOND by Commissioner Hufstetler. VOTING:

YES NO

Commissioner Fricks  
" Hufstetler  
" Jennings  
" Bennett  
Chairman Mayes

Motion Carried

#### **OPEN HOUSE/DEDICATION SHANNON WATER TREATMENT FACILITY:**

Commissioner Jennings stated he would like to invite the commissioners and the community to the Open House at the Shannon Water Treatment Plant tomorrow at noon. He stated Floyd County spent quite a bit of money to purchase and upgrade the old Gale and Lord Water Treatment facility. He stated it has the potential of supplying 750,000 gallons a day to our water system and they just want to show it off.

Chairman Mayes stated before going any further he would like to thank the Berry College Public Affairs Reporting students for being here today.

#### **5. Special Committee Reports**

##### **a. Consolidation Task Force (Fricks/Hufstetler)**

No Report.

##### **b. Parking Committee (Fricks/Bennett)**

No Report.

##### **c. SPLOST Committee (Jennings)**

No Report.

##### **d. Work Release Committee (Jennings, Fricks, Mayes)**

###### **1) Discuss hiring Architect for Work Release Center Project.**



Defer.

**e. Fire Overview Committee (Bennett, Mayes)**

No Report.

**f. Joint Services Committee (Mayes, Fricks)**

**1) Memorandum of Understanding regarding Parking Deck**

Chairman Mayes stated they have a Memorandum of Understanding regarding the proposed downtown parking deck and asked County Attorney Tommy Manning to review the proposed changes. County Attorney Manning reviewed the document with the proposed changes.

Chairman Mayes made a MOTION to accept the Memorandum of Understanding as reviewed. SECOND by Commissioner Fricks.

**Discussion:** Commissioner Bennett stated as he understands this agreement, as they attempted to draft it, they are not committing to the partners or the participants in the transaction. He stated the Memorandum of Understanding is basically saying that there would be a parking deck to be constructed at least by the city and the county. Possibly Battey would be involved in it depending on what is in the best interests of the parties, it but they are committing to pursuing the deck.  
VOTING:

	YES	NO
	Commissioner Fricks	Commissioner
Hufstetler	Commissioner Jennings	Commissioner
Bennett	Chairman Mayes	

Motion Carried

**CLERK’S REPORT:**

**CONSENT AGENDA**

County Clerk Kathy Arp stated there are three items on the Clerk’s Consent Agenda, which have been reviewed and are submitted for approval. Commissioner

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

YES NO

Commissioner Fricks  
" Hufstetler  
" Jennings  
" Bennett  
Chairman Mayes

Motion Carried

**1. Tax Refunds:**

a. Com-Tech Rome, Inc., 2945 Floyd Springs Road, \$38.59

- 2. Authorize release of Nula Bona accounts totaling \$237,072.84 from the Tax Digest.**
- 3. Tax refund in the amount of \$2,659.50 to Billy J. Nicholson, Jr. for overpayment of property taxes.**

**MANAGER'S REPORT:**

**1. DISCUSS REQUEST FROM TRIPLE L CLUB FOR A LEASE EXTENSION FOR COUNTY PROPERTY LOCATED AT 10 WATSON STREET:**

County Manager Poe stated they have a request from the Triple L Club for a lease extension on the property that they lease from the county at 10 Watson Street for Alcohol Anonymous Group meetings. He stated they have been leasing this property for several years, and the Club wants to make some improvements to the property. If they do that they want a longer commitment as far as being able to lease that property. The current lease is through December 31, 2007. Chairman Mayes asked how long do they want. County Manager Poe stated through 2015. County Manager Poe stated they are also asking for a reduction in their annual lease payment.

Commissioner Bennett asked is that County Manager Poe's recommendation, that they do this. County Manager Poe stated he recommends that they extend the lease. Commissioner Bennett asked what are they wanting to reduce the lease payment to. County Manager Poe stated they just asked for a reduction. Chairman Mayes stated if we are only charging \$600 annually now, we may as well just charge \$1 per year. County Manager Poe stated they are not having to put any money into this project. Commissioner Bennett stated they have maintained this completely. Chairman Mayes stated they are providing a service that the county does not have to provide.

Commissioner Bennett made a MOTION to extend the lease to the year 2015 and that the yearly rent be adjusted to \$1 per year effective January 1, 2008. SECOND by Commissioner Jennings. VOTING:

YES NO

Commissioner Fricks  
" Hufstetler  
" Jennings  
" Bennett  
Chairman Mayes

Motion Carried

**2. APPROVE SUBMITTAL OF AN APPLICATION TO THE GEORGIA FORESTRY COMMISSION FOR WILDLAND FIREFIGHTING EQUIPMENT:**

County Manager Poe stated they have an opportunity to submit an application to the Georgia Forestry Commission for wildland firefighting equipment. He stated they have volunteers in the Emergency Management Department that are certified wildland firefighters and they really need to get them updated fire protection equipment. He stated they have an opportunity to get this equipment through a grant from the Georgia Forestry Commission in the amount of \$7,825. He recommended they authorize the chairman to sign the application to submit for this equipment. He stated Scotty Hancock, Emergency Management Director, had requested funds for this equipment in the 2006 budget because it is something they needed, so if this is funded through the Georgia Forestry Commission grant it would not have to come through the General Fund Budget for Emergency Management.

Commissioner Jennings made a MOTION to approve the application through the Georgia Forestry Commission for the wildland firefighting equipment as recommended by the County Manager. SECOND by Commissioner Bennett. VOTING:

YES NO

Commissioner Fricks  
" Hufstetler  
" Jennings  
" Bennett  
Chairman Mayes

Motion Carried

**3. APPROVE \$1,500 SUPPLEMENT TO LASONJA HOLCOMB FOR SERVING AS ACTING MIS DIRECTOR:**

County Manager Poe stated LaSonja Holcomb continues to serve as Acting MIS Director, and recommended authorization for a \$1,500 supplement for this past quarter (July-September). He stated they have received a report from the company that did the IT study. They will be coming forward with some recommendations, and hopefully deal with the situation of a permanent director, in the near future. He stated LaSonja continues to do a good job in her position.

Commissioner Hufstetler made a MOTION to accept the County Manager's recommendation. SECOND by Commissioner Bennett. VOTING:

YES NO

Commissioner Fricks  
" Hufstetler  
" Jennings  
" Bennett  
Chairman Mayes  
Motion Carried

**4. AUTHORIZE EXECUTION OF LOCAL STATE ROUTE ACCEPTANCE RESOLUTION FROM THE GEORGIA DEPARTMENT OF TRANSPORTATION, IN CONJUNCTION WITH THE SOUTHWEST SECTION OF THE ROME BYPASS:**

County Manager Poe stated as the Georgia Department of Transportation goes about building the bypass they will be crossing certain county roads. They will be doing this in phases, and this is a document related to certain roads that will become part of the bypass for a certain time. He stated then when the DOT completes other phases those county roads will revert back to county maintenance. The county is not agreeing to take any of the state portion of the road, we are just agreeing to work with them through the process. When the bypass is completed, those portions of the county roads will be reverted back to the county and they will accept them back on maintenance. They are not agreeing to maintain anything that they are not already maintaining.

Commissioner Hufstetler made a MOTION to authorize the Execution of the Local State Route Acceptance Resolution from the Georgia DOT. SECOND by Commissioner Jennings. VOTING:

YES NO

Commissioner Fricks  
" Hufstetler  
" Jennings  
" Bennett  
Chairman Mayes

Motion Carried

**5. AWARD BID FOR MIDWAY PARK FENCING:  
(2003 SPLOST)**

County Manager Poe stated the Recreation Authority recently took bids for fencing work at Midway Park as part of their 2003 SPLOST projects. He stated they received one bid from Morris Fence Company in the amount of \$25,100, and recommended acceptance of that bid.

Commissioner Hufstetler made a MOTION to accept the bid for the Midway Park fencing as recommended by the County Manager. SECOND by Commissioner Jennings. VOTING:

YES NO

Commissioner Fricks  
" Hufstetler  
" Jennings  
" Bennett  
Chairman Mayes

Motion Carried

**6. REQUEST FROM ROME KARES TO ASSIST IN  
OPERATION OF 211 INFORMATION LINE:**

**4/5 VOTE REQUIRED**

County Manager Poe stated during Caucus they heard a presentation from Rome Kares about the 211 service. Commissioner Hufstetler made a MOTION to place the item on the agenda. SECOND by Commissioner Jennings. VOTING:

YES NO

Commissioner Fricks  
" Hufstetler  
" Jennings  
" Bennett  
Chairman Mayes

Motion Carried

County Manager Poe stated the recommendation is that Floyd County assist in operation of the 211 service per the proposal submitted by Rome Kares, with a commitment for three years.

Commissioner Hufstetler made a MOTION to accept the recommendation and approve a 3-year commitment to Rome Kares. SECOND by Commissioner Bennett. VOTING:

YES NO

Commissioner Fricks  
" Hufstetler  
" Jennings  
" Bennett  
Chairman Mayes

Motion Carried

**ATTORNEY’S REPORT:**

**1. AFFIDAVIT REGARDING BERRYHILL LANDFILL:**

**4/5 VOTE REQUIRED**

Commissioner Hufstetler made a MOTION to add this item to the agenda. SECOND by Commissioner Bennett. VOTING:

YES NO

Commissioner Fricks  
" Hufstetler  
" Jennings  
" Bennett  
Chairman Mayes

Motion Carried

County Attorney Manning stated this Affidavit is in regard to the Berryhill Landfill. He stated the site has been evaluated by the EPD and meets the requirements for listing on the Hazardous Site Inventory. Georgia law requires filing of an affidavit with the Clerk of Superior Court regarding this listing. He stated by doing this the county is eligible to receive financial assistance from the Hazardous Waste Trust Fund to help pay for eligible investigation and cleanup costs, and thus to be in compliance with Georgia law. He recommended that the commission authorize the chairman to execute this affidavit.

Commissioner Hufstetler made a MOTION to authorize the chairman to execute the affidavit that is before them, per the County Attorney's recommendation. SECOND by Commissioner Bennett. VOTING:

YES NO

Commissioner Fricks  
" Hufstetler  
" Jennings  
" Bennett  
Chairman Mayes

Motion Carried

**ADJOURNMENT:**

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

YES NO

Commissioner Fricks  
" Hufstetler  
" Jennings  
" Bennett  
Chairman Mayes

Motion Carried

**FLOYD COUNTY BOARD OF  
COMMISSIONERS**

**JOHN MAYES, CHAIRMAN**