



## 2008 YEARS OF SERVICE AWARDS

Chairman Jennings stated they are very fortunate in Floyd County to have effective, dedicated employees. He stated they have a number of those employees that they are going to honor for their service to Floyd County. He asked his fellow Commissioners and County Manager Poe to join him in recognizing the following employees for their years of service:

Charles Layman, Sheriff Department	35 Years
George Lemming, Police Department	35 Years
Horace Williams, Public Works	35 Years
Thomas McGuire, Sheriff Department	30 Years
Homer Vincent, Prison	30 Years
Debbie Sparks, District Attorney	25 Years
Wayne Gentry, The Forum	25 Years
Nancy Canada, Sheriff Department	25 Years
Timothy A. Pape, Juvenile Court Judge	25 Years
Teri Davis, Police Department	25 Years
Fay Frankland, Superior Court/Judge Durham	25 Years
Edward Ballard, Water Department	25 Years
Steve Hulsey, Water Department	25 Years
Sherry Battle, E-911	20 Years
Rickey Agan, Sheriff Department	20 Years
Dana Collum, Police Department	20 Years
Gary Conway, Police Department	20 Years
Mark Corbin, Police Department	20 Years
Thomas Ewing, Police Department	20 Years
Robert Adams, Prison	20 Years
Larry Bell, Public Works	20 Years
Rhonda Bollen, Public Works	20 Years
Harold L. Garner, Public Works	20 Years
Burnie Lane, Public Works	20 Years
Davlon Ezell, Superior Court Collections	20 Years

County Manager Poe thanked the employees for their hard work, and stated they are all appreciated.

## RESOLUTIONS:

### 1. ADOPT RESOLUTIONS TO AMEND FEE SCHEDULE BOOK REGARDING:

- a. **ALARM SYSTEMS**
- b. **ANIMAL CONTROL**
- c. **SELF-SERVICE MOTOR FUEL DISPENSING PUMPS**

**d. PRECIOUS METALS**

Commissioner Fricks made a MOTION to Adopt Resolutions to Amend the Fee Schedule Book regarding Alarm Systems, Animal Control, Self-Service Motor Fuel Dispensing Pumps, and Precious Metals as submitted. SECOND by Commissioner Lumsden. VOTING:

YES NO

Commissioner Fricks  
" Lumsden  
" Mayes  
" Whitefield  
Chairman Jennings

Motion Carried

**FIRST READINGS:  
(SECOND READINGS/PUBLIC HEARINGS  
TO BE HELD FEBRUARY 26, 2008 AT 6:00 PM)**

- 1. FILE #02-2008MOV, REQUEST VARIANCE FROM §2-15-6(i) OF THE FLOYD COUNTY CODE (SURFACE MINING ORDINANCE) TO ALLOW SETBACKS OF 50 FEET FROM STREAMS ON SITE AND SEDIMENT PONDS CONSTRUCTED IN STREAM CHANNEL, ON PROPERTY LOCATED AT 4607 FOSTERS MILL ROAD, SW. ZONING MAP D18 – PARCEL 011, 013, 014. (S-R SUBURBAN RESIDENTIAL):**

Chairman Jennings stated the Second Reading/Public Hearing would be held Tuesday, February 26, 2008 at 6:00 p.m.

**SECOND READINGS/PUBLIC HEARINGS:  
(FIRST READINGS HELD JANUARY 22, 2008)**

Chairman Jennings reviewed the procedures for Public Hearings.

- 1. FILE #121-2007Z, REQUEST REZONING FROM L-I (LIGHT INDUSTRIAL) TO C-C (COMMUNITY COMMERCIAL) FOR MARKETING OF PROPERTY LOCATED AT 3 HIGHWAY 53. ZONING MAP M10-W – PARCEL 006A & 006A1. (PLANNING COMMISSION RECOMMENDATION: APPROVE [VOTE: 8-1]):**

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

YES NO

Commissioner Fricks  
" Lumsden  
" Mayes  
" Whitefield  
Chairman Jennings

Motion Carried

Chairman Jennings reviewed the procedures for public hearings. He then asked Ms. Sue Hiller, Planning Department Director, to give a brief overview of the request. Ms. Hiller stated to the north, south and west are properties zoned L-I. There is some property across the highway that is zoned S-R (Suburban Residential) and is used residentially. She stated some of the residential property to the south, across the highway, is developed with residences. Some of it has other uses. To the east along the highway is the Church Chair factory. She stated there is industrial development around the subject property. The Planning Commission's recommendation to the Board is that they approve this request. The motion was carried on a vote of 8 – 1, with one member abstaining. She stated this is a speculative rezoning, so they do not have a site plan. Chairman Jennings asked Mrs. Hiller what the staff's recommendation was. Mrs. Hiller stated staff's recommendation was to deny the request. She stated this is an area that is shown as an industrial area on the Comprehensive Plan Maps both from the 1993 plan, and from the plan that was recently prepared. She stated in terms of speculative rezoning, there are a number of things that should guide in these decisions. One is the availability of utilities and services; secondly, the surrounding uses, and whether it would be compatible with those uses; and the third is what their Comprehensive Plan tells them to do. One of the issues that was raised during the most recent comprehensive planning process is the use of this corridor for industrial uses. She stated they have had several rezoning cases within this corridor including the property at Highway 53 and 140 where zoning decisions were made to support that concept that is more or less an industrial corridor. She stated staff's recommendation was based on that.

**Support:** Melvin Alred, 628 Cartersville Highway SE, stated he is the owner of this property, and went to the Planning Commission requesting this rezoning for two reasons. He stated one, there are some wetlands on this property. He thinks it would be less invasive to have it community commercial rather than an industry there because of the creek and the wetlands running through it. Two, there are 500-600 acres there that are zoned industrial. He stated Florida Tile next door, which is closed, is industrial so he does not think that it could be marketed as industrial because there is so much there to be done. He asked that the Commission approve this request for rezoning.

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

YES NO

Commissioner Fricks  
" Lumsden  
" Mayes  
" Whitefield  
Chairman Jennings

Motion Carried

Commissioner Mayes made a MOTION to approve the rezoning request.  
SECOND by Commissioner Fricks. VOTING:

YES NO

Commissioner Fricks  
" Lumsden  
" Mayes  
" Whitefield  
Chairman Jennings

Motion Carried

**2. FILE #01-2008SUP, REQUEST A SPECIAL USE PERMIT FOR A MANUFACTURED HOME ON A SUBDIVISION LOT IN S-R (SUBURBAN RESIDENTIAL) ZONING DISTRICT ON PROPERTY LOCATED AT 92 THOMPSON ROAD. ZONING MAP J17W – PARCEL 258. (PLANNING COMMISSION RECOMMENDATION: APPROVE [VOTE: 10-0]):**

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

YES NO

Commissioner Fricks  
" Lumsden  
" Mayes  
" Whitefield  
Chairman Jennings

Motion Carried

Chairman Jennings asked Ms. Sue Hiller, Planning Department Director, to give a brief overview of the request. Ms. Hiller stated the subject property is within a

subdivision called Bradshaw Subdivision, therefore requires a special use permit to place a manufactured home on the property. She stated it is essentially surrounded by single-family residential zoning. There are what appear to be some manufactured homes further down along the property. She stated the only ones that are apparent at this time are in unlivable conditions, and most of the properties that surround the subject property are developed with single-family dwellings. The staff recommendation on this was to deny. She stated when the amendment to the ULDC was put in place that required a special use permit, the criteria was whether it was compatible with surrounding properties. She stated the use is certainly compatible, because it is single-family residential. However, the predominant type of development is site-built single-family residential. She stated this comes to the Board with a recommendation from the Planning Commission to approve.

**Support: Howell Nails, Old Rockmart Road**, stated he would like to get this thing passed so he can get finished with it, and get in it. He stated it actually looks better than some of the houses around it. He stated there are a couple of trailers there. It is not a real nice place, but it is a good enough place for a trailer.

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

YES NO

Commissioner Fricks  
" Lumsden  
" Mayes  
" Whitefield  
Chairman Jennings

Motion Carried

Commissioner Fricks made a MOTION to approve the request for special use permit. SECOND by Commissioner Mayes. VOTING:

YES NO

Commissioner Fricks  
" Lumsden  
" Mayes  
" Whitefield  
Chairman Jennings

Motion Carried

**3. FILE #02-2008Z, REQUEST REZONING FROM S-R (SUBURBAN RESIDENTIAL) TO H-I (HEAVY INDUSTRIAL), WITH A SPECIAL**

**USE PERMIT, FOR SURFACE MINING ON PROPERTY LOCATED  
AT 4607 FOSTERS MILL ROAD, SW. ZONING MAP D18 – PARCELS  
011, 013, 014. (PLANNING COMMISSION RECOMMENDATION:  
DENY [VOTE: 9-1]):**

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

YES NO

Commissioner Fricks  
" Lumsden  
" Mayes  
" Whitefield  
Chairman Jennings

Motion Carried

Chairman Jennings asked Ms. Sue Hiller, Planning Department Director, to give a brief overview of the request. Ms. Hiller stated the subject property measures approximately 170 acres in size. She stated the surrounding zoning is S-R (Suburban Residential) with the exception of a small area of H-C (Heavy Commercial) to the south, and a small area of A-R (Agricultural Residential) that is connected at a corner. She stated the predominant land use in the area is rural residential, forestry, and undeveloped land. The subject property is currently undeveloped, and probably was used agriculturally, but maybe as long ago as 30, 40, or 50 years, based on the growth. She stated the H-C zoning to the south is mainly undeveloped land. The surrounding properties do have residences on them in most cases. She stated in order to do a mining operation on a piece of land it has to be both zoned H-I (Heavy Industrial), and it has to have a special use permit. That is under the ULDC, and there is a Floyd County Mining Ordinance that also requires that special use permit. She stated because there are two ordinances in operation, a submittal for a special use permit have to meet the requirements of both of those. Those requirements include that the property be a minimum of 200 acres in size, requirements for stream buffers, lake and pond buffers, and there are requirements for setbacks from the property line. She stated the ULDC requires 200 feet of setback and buffer. The Floyd County Mining Ordinance requires a 1,000-foot buffer, although that can be reduced with provision of a berm. She stated there is a requirement to fence under both ordinances, and the ULDC also requires a berm, even with the 200-foot buffer requirement.

Ms. Hiller stated that the information submitted indicates that this would be a shallow surface mining operation for removal of shale. She stated it indicates that it would not be deep enough to impact the groundwater. She stated there is some drainage waste there, so the surface water would be impacted somewhat because they would be doing some impoundment for stormwater detention and sedimentation. She stated they would also mine within 50 feet of most of the streambanks within this area. They are asking for a variance to allow that. She stated they have indicated that the mining would

be carried out during daylight hours, 5 or 6 days a week and they are estimating approximately 53 truck trips per day that would exit the property onto Fosters Mill Road headed to the north. She stated this mining operation would not require blasting, and the applicant has indicated that they would also control dust on the site by using water and suppression materials. She stated this is an area where there are services in place. Cave Spring provides the water service, but there is no sewer service in place. Fosters Mill Road is classified as a collector road. She stated the Board had a similar request before them late in 2007 for a mining operation on Huffaker Road. That request was approved with a list of conditions that were provided by the Planning Commission. Those same conditions were proposed by staff, if the Planning Commission chose to recommend approval of this request, with an additional condition. She stated that the additional condition is that the special use permit be for the shallow mining of shale with no encroachment into the ground. In the case of the Huffaker Road property, one difference is that that property was already zoned H-I (Heavy Industrial) and surrounding it were other properties that were zoned H-I. She stated in this particular case the property is zoned S-R (Suburban Residential), and there are no other industrial properties surrounding this, therefore this would be a spot zone. The thing about spot zones is that they are not in and of themselves a bad thing, but if it is incompatible use, it can have some adverse impacts on the surrounding properties. She stated that she thinks the mitigation measures that they have proposed, and the conditions that could be placed on this, would help to mitigate those to some extent. However, it would still be an incompatible use of heavy industrial that would land in an area that is predominantly very rural and residential.

She stated another issue that was raised at the Planning Commission meeting had to do with the groundwater. The Floyd County Water Department indicated through their comments that the springs that provide some of the Floyd County water, and the springs that provide the water for the City of Cave Spring, could be impacted by this. She stated the applicant again indicated that they did not believe they would have any impact on groundwater, and that was based on their own report that was presented at the meeting. She stated at the Planning Commission meeting there was a request from one of the neighbors that a decision on this be postponed. There was an initial motion by a Planning Commission member that the request be postponed, however that motion was defeated. She stated there was second motion to recommend denial of this request, and that was based on the fact that variances would be required for this mining to be carried out on site. Those variances would be to allow mining on a site less than 200 acres. To allow mining to be closer to the property lines than the Floyd County Mining Ordinance would allow, the stream buffers, which they talked about, and the fencing and berm requirements that are in the ordinances. She stated the second motion, which was to recommend denial, was approved on a 9 – 1 vote.

**Support: David Archer, 43 Robin Drive, Cartersville,** stated he is an attorney from Cartersville, and he represents General Shale Brick in these applications. He stated he would submit to the Board that there are people that can address these issues much better than he can. They have people that can talk about the hydrology, the geology, and the traffic. He stated upon the conclusion of this hearing that they are

going to request the Board table the vote on this matter until they have the February 26, 2008 public hearing on the item that is on today's agenda for first reading, so all of this can be voted on at the same time. He stated what they are requesting is that both the requests for rezoning, the special use permit, and the condition for the variances be tabled at the conclusion of this public hearing for a vote at a later time.

**Greg Bowles, 100 Hill Street, Kingsport, Tennessee,** stated he represents General Shale Brick, and as they are aware, they operate a brick plant on Turners Bend Road, which requires significant amounts of shale in the process of producing brick. He stated they do not enter into this lightly at all. They understand that requesting a rezoning like this is problematic. He stated that he spent five years personally working to find a suitable property in Floyd County and the surrounding area. He stated brick making requires very specific materials, and this particular shale works. They are in critical need for this material, so they are requesting approval, and they appreciate the Board's consideration. He stated they have contracted Richard Fountain & Associates to take care of their permitting needs, and he is a professional consulting geologist. He would like to have him speak, followed by Chuck Hardin who is a professional engineer who can address the traffic issues, and the contacts that they have made with the Department of Transportation.

**Richard Fountain, 615 NE Turkey Mountain Road, Armuchee,** stated he has been responsible for looking at the regional geology, hydrology, and doing various permits on this site. He stated he thinks they all need to remember that when the earth was created all the rocks and minerals were put right where they are today. He stated they were put there for man's use. For resources to continue our society, and our society's needs. The material that is needed to make brick work at the General Shale plant happens to be located on this piece of property. He stated he has taken that piece of property and drawn what is called a cross section to scale, up and down, and horizontally the same with no exaggeration. Mr. Fountain presented a power point presentation, which included maps of the property. He referenced particular areas included on the maps. He stated the rock types on this property that carry the water at Cave Spring, that everyone is worried about, there is no way that mining 40' of material right there would go down and affect material about 800 or 900 feet below ground surface. He stated there are a lot of what is called structural faults between Cave Spring and where the proposed mine site is. The rock types are different, and they just do not feel that there is any way in the world that mining that little bit of material off the top of that site will affect the water at Cave Spring.

**Chuck Hardin,** stated he is with Southern Engineering, which is a civil engineering consulting firm. He stated they are working for General Shale Brick, and their main objective on this project is to obtain Georgia Department of Transportation permitting for access to the site. They have met on-site with the DOT, and they do have a Letter of Intent from the Georgia Department of Transportation to allow access, and allow a driveway, serving the mining site. He stated basically, that is a Letter of Intent from the DOT stating that they do intend on providing access off Highway 100 and Fosters Mill Road to access the site. Obviously, everything will be designed and

constructed within the DOT standards, accel/decel lanes, and so forth. He stated they just wanted to ensure the Commission and the residents that they have met with the DOT. They have come out, looked at everything, approved the site for an entrance, and everything will be constructed in accordance with their regulations. Commissioner Mayes asked Mr. Hardin about the accel/decel lanes. Mr. Hardin stated they have not got that far with the DOT because they have not begun the design. He stated there would definitely be a deceleration lane on the site. The length of that will be determined by the DOT. He stated right now, it would be a right turn deceleration lane on the same side. The left hand turn lane has not yet been determined by the DOT. He stated it could be a possibility, but it is dependant on the amount, and type of traffic that the mine operation will have. Looking at their haul route, and their traffic operation, it is actually insignificant to the grand scheme of things. He stated they are talking about 50 – 53 trips per day. General Shale is proposing the use of three trucks so the traffic generated by the mine itself is not going to be great, and it probably would not constitute any kind of left hand turn lane, or anything like that. He stated the DOT, for safety reasons, might dictate that, but that is left to be seen in the design.

**Tony Carter, 153 Michael Blvd., Cedartown,** stated he lives in the Valley Grove Subdivision, seven miles from the square in downtown Cave Spring. He stated he understands how the people in Cave Spring feel as far as this mine coming in. They are concerned for their groundwater, possibly future industry moving in on a community that has been quite for years, and the people that live in Cave Spring would like to keep it that way. He stated he is sure of that, but he is also an employee of General Shale. He has a family he has to feed, the same way as 45 or 50 other people that work at General Shale, and in order for them to continue to do the job that they do, they need the raw materials to manufacture brick. He stated at this time there are not that many options for those materials that close to the plant. From what he has heard today as far as the surface mining goes, they are not going to do anything but scrape the top layer off the mountain in Cave Spring. He stated it is a tough decision for the Board to make, and there are a lot of different opinions involved, but progress is going to continue regardless of what they do. He stated he does not want to see Cave Spring damaged. He stated he considers it God's country, and he has run around there his whole life because it is where he grew up. However, he also thinks it could be a long-term benefit to Cave Spring, with some of the things that General Shale has offered to do.

**Eugene Leaks, 69 Highlander Trail,** stated he works for General Shale Brick. He stated he has been with them for eight years and they have an impeccable reputation. He stated this is the fourth plant he has worked at, and if they would do some inspection on General Shale's history, they are going to be fair, equitable, and have sensitivity to the locals. He stated he also goes to church in Cave Spring, so he understands the sensitivities. He thinks they can find a perfect marriage and a balance here, because as Mr. Carter said, that is his means of feeding his family also. He stated he does not want to be insensitive to Cave Spring locals, but he thinks the Board should move in favor, or at least give a good evaluation in approving General Shale.

**Jeremy Lawrence, 121 Turner Bend Road,** stated he just wants to share some quick facts. He stated currently they have sixty-one employees, hourly and salary. One of their full productions, up to eighty-five employees, so this decision does affect a lot of families. He stated for the future of their plant they need that material. This fall will be five years that they have operating in Rome, and one of their biggest challenges is cost in raw material, which part of they are transporting from Atlanta, Georgia right now. He stated for their longevity this is very important to the company.

**Opposition: David Guldenschuh,** stated he is a lawyer here in Rome. He stated he is working with this group, and in particular, with Bob Morgan, whose backyard will be impacted if this mine is approved. It is somewhat disturbing to him that while they heard great talk about the water table 800 – 900 feet below not being affected, they did not really hear a whole lot about the impact where they can all see, and the impact on the homeowners there. He stated as was reported, this is a suburban residential area, and the request is to rezone it to heavy industrial. This is not a transitioning area. He stated he would think to spot zone heavy industrial within a suburban residential area is unprecedented in this county. Moreover, it is completely inconsistent with the ULDC, and the whole purpose of land use planning. He stated as part of it, it will not only be putting H-I within the middle of these residences, but there are many other parts of this. The reduction of setbacks. The problems with dust, and the additional trucks, 53 trucks a day at maximum weight. He stated they have the City of Cave Spring council who has indicated their opposition to the rezoning. There has been no discussion about the impact of this on ground runoff, just the basic sediment and water runoff. He stated the hill sits above a number of the residents. There are, for example on Mr. Morgan's land, some five lakes that stand to either dry those lakes out if the water is held back, or on the other hand in different conditions it could cause flooding of sorts. He stated he knows that there are ways to control that, but again, based at least on what they have read within the application they do not see where that is there. He stated they have heard discussions from various employees about the future of the plant. He stated that has a great concern to him, because this issue has not been raised before. That argument of they may lose this company, he does not think there is anything in the record before them that supports that, and if indeed that is an argument, it should have come up long before now. He stated finally, they have heard from hydrologists, and experts of that type. He submits to them that the real experts in this situation are people at other sites who have residences around these kinds of sites. He also submits to them that the predictor of what will happen one needs to look at what has happened in the past. He stated he talked with Mr. Archer, they had hoped to be able to, in a good faith effort, look into this. He and Mr. Morgan had hoped to be able to go out to site to see exactly what it looked like, and a proposal or suggestion had been made that perhaps they find a site in a suburban residential area, whether it be here or somewhere else, where they could look at that. He stated more importantly ask the residents in that area what impact it has had on them. He stated those are the true experts, and they will see nothing in their package that suggests that those kinds of experts will say that there is going to be no impact on the surrounding area.

Mr. Guldenschuh stated he understands that there is going to be a request that the Board table this. He stated he would respectfully request that they go ahead and vote today to deny the rezoning. His reason for that is because this thing has been submitted in various parts with both the variance part of it and the rezoning request coming at different times. There have been at least two Planning Commission meetings where the number of residents have spoken in opposition of it, and had to come to those meetings. He stated there was a third, where it was tabled so nothing occurred there. He stated to table it is to require the fifth time that they would have to come here. He stated they will come a fifth time because this is important to them. He stated the Board has the information in front of them to make a decision on zoning, and nothing is going to change by tabling this. He stated all that is going to happen is another variance request will end up with them at the same time. If they vote today that variance request will undoubtedly be withdrawn, and he would simply ask as an accommodation to the residents, that they not request them to have to come again. He thanked the Board.

**Danny Proudfoot, 5225 Fosters Mill Road, Cave Spring,** stated he has 220 acres that adjoins on two sides, with two ground level springs within approximately 100 yards, a third spring within approximately 150-200 yards, and a fourth spring approximately 300 yards from it. He stated he had paid for that property for the last 30 years, and he is concerned about the property values. He lives in Cave Spring because of the peace and harmony of the community. He stated he has read in the paper about the truck traffic. He stated they already have enough truck traffic coming through that area. He stated according to the paper on the high end they are looking at 318 trucks a week. He is also concerned about these changes in the buffers, berms, and the fencing. As they all know, the requirement of the county code's minimum is 200 acres, and they are asking 177. He stated the Planning Commission voted 9 – 1 against it previously. He is concerned about the interests of the citizens of Floyd County, and not necessarily big business. He stated he is just one individual, but the people in here speak for the community. He stated his property is a good portion of the S-R property.

**Mike Haas, 4624 Fosters Mill Road, Cave Spring,** stated they talk a lot about the traffic and the safety of what it is going to take to get into this property with the extra trucks and all that is going in. He stated this does not give justice to the site distance each way. He stated it is so unsafe out there that they cannot even have a bus stop there anymore. He has literally seen the pulpwood trucks have to pass the school bus on the northbound side, which is headed downhill so they no longer have a bus stop there. He stated he speaks for a lot of folks who are here and several different issues. He does not know who General Shale has talked to about the entrance way into the property, but he would like to know where their entrance is going to be, and who looked at the site. It was his understanding that they do not have enough distance there. He stated they did say that they have applied for the permit, but they do not know if it has been recognized yet that they are going to get it. He talked about the curves in each direction, they cannot see well, and by the time they approach there, especially coming northbound down the hill, there is no way for those big trucks to stop. They talked about a decel lane or a turn lane. He stated they would have to make a left hand turn across where the trucks headed northbound are going to be headed downhill. They

talked about the variances in the buffers, the dust, and the hours of operation. He stated for the residents that live there, they are not only talking about Monday through Friday, but they are also talking about Saturdays. They want to reduce the buffers to 200 feet instead of 1,000 feet. He stated then the issue of the depreciation of their homes. His home is on that flag lot. He stated the home and the lot is around \$300,000.00. He owns about 40 acres that surrounds that. He asked what is going to happen to the depreciation of his home. He stated he just wants to hit the traffic safety real quick. It seems to him that General Shale has come to them asking for a lot of variances and reduce a lot of the requirements that the county has required for a lot of times. He asked with the critical needs that they are mentioning, why have they waited so late. He asked why have they waited five years to keep a company in operation. It seems to him that they would come to the Board more prepared, and be able show the residents more of what this operation is going to be. He stated they are talking about surface mining down so low, so what are they going to do with it when it is done. He asked are they going to zone it for garbage, flat ash, or they had mentioned turning it back over to residential. He asked what are they going to do then. He stated they started this meeting talking about Arbor Day, and here they are going to remove the mountain, which is nearly 177 acres of trees. He asked that the Board support the locals on their decision today.

**J. L. Dunn, 4860 Fosters Mill Road, Cave Spring,** stated he is not by any means the one with the most expensive home there. He stated he has 40 acres there at Slab Town Road. The other people going toward Coosa on Highway 100 have more expensive homes than he does. He stated he has probably \$250,000.00 in his house, it is not much. He stated he is just an old working boy, so he does not have all the money that other people have. He stated all of them have spent, or put into their homes, all that they have earned in their lifetime. He stated it has not been too long since they ran Chairman Jennings off a hill in Floyd County, so he can relate to the impact that it is going to have on their home lives, and they do not want it. He stated they might have to have it, but they do not want it.

**Bob Morgan, 4529 Fosters Mill Road, Cave Spring,** stated there is a section with a lake/pond sitting to the east and south of that property with road frontage. He stated he knows a lot of issues have been brought up, and he is hoping that they will deny this rezoning. He stated they all have put in a lot of time and effort. They bought this property, and did not realize that they were going to be surface mining or anything else on this property so they built their homes there. He stated they can understand that, and a lot of people are against this. He thinks the traffic is going to be a real big problem. It is not just for the people in this room, but all the people that live on Highway 100 going north, Alabama Highway, and going toward Coosa High and Coosa Middle schools. He stated people are going to be traveling back and forth, and it is going to create a big problem. He stated he is also a volunteer firefighter with the Cave Spring Fire Department, and they have worked a number of accidents that involve 18-wheelers. He stated this is just going to multiply, and it could be their families involved in these accidents. He stated there were a lot of good issues brought up, and he hopes they consider all of them.

**Steven Hail, 51 Cedartown Street, Cave Spring,** stated he was one of four citizen members of the original Mining Ordinance Committee that drew up the original proposal, which was replaced by the proposal that they have now, and approved by that committee. He stated the committee was chaired by Commissioner Fricks. He stated it contained not only citizens who live in Rome and Floyd County, but also members of industry including Florida Rock, and Richard Fountain, the hydrologist who spoke earlier. He stated the resulting ordinance is a compromise trying to satisfy both citizens and industry. The proposal from General Shale is not a variance request. He stated it is a recension of the mining ordinance. They may as well take the Mining Ordinance and tear it to pieces if they make that many changes in it. He stated the environment of Cave Spring is called carsed aquifer, limestone. It is a very fragile environment. It is susceptible to blasting, to dewatering, and to surface pollution. He stated none of these affects were mentioned by Mr. Fountain. He quoted Section K of the Mining Ordinance. He stated he thinks they heard no evidence from the proponents of the change that it would have no affect. It was not mentioned by the proponents either, but it has been the case, that citizens living within six miles of a quarry have lost their homeowners insurance. He stated they found it impossible to get homeowners insurance because of the proximity to a quarry. Opponents of the citizen's groups who oppose these things, that is the industries, often label this sort of objection as a 'not in my backyard' issue, meaning you want industry you just do not want it in your backyard. He stated this is not a 'not in my backyard' issue, this is a 'where did my backyard go' issue. He asked the Board to deny the so-called special use permits, which are in affect a recension of the mining ordinance that they have.

**Cecil Carney, 4720 Fosters Mill Road, Cave Spring,** stated he has been living there for three and a half years, and safety is a concern with him. He stated he has never seen the first form of law enforcement to have an 18-wheeler stopped on Fosters Mill Road between Cave Spring and Coosa. He stated there is not enough room. He stated they cannot get them off the road. He stated he is on the south end of Fosters Mill Road, and from the point that they are on that highway, to seeing that entrance at 60 miles per hour, is seven seconds. It is also seven seconds from the other end. He stated that is abnormal. They cannot even have a bus stop there. He stated to the employees of General Shale, these people are not here to deny them a job, and it is shameful that their people gave them that indication. He asked would they want this across the road from their homes.

**Rebecca Branham, 8877 Cave Spring/Cedartown Road, Cave Spring,** stated she and her husband retired to Cave Spring about two years ago. She stated Floyd County has single residential zoning, and she has never heard of that kind of zoning being upgraded to heavy industrial. She stated this cannot happen if they want to continue to attract people to this area. Rome-Floyd County has done a great job of attracting retirees who are buying property, but they will not continue if they do not respect their loss.

**Angela Shumate, 4668 Fosters Mill Road, Cave Spring,** stated her driveway is directly across from their site. She stated she is one of the ones who do not

have a bus stop down there. She takes her child and her neighbor's child to school everyday in Coosa. She stated since they closed their school down, they have to commute to Coosa, and they cannot let a bus stop there. She has personally had to accel to get out of the way of a transfer truck from hitting her while she was trying to pull in her driveway. She stated she has a fourteen-year-old child that is going to be driving, and she is terrified of him pulling in and out of their driveway. She has two more kids that are going to be going down that road to school everyday, so that is three lives that she knows she wants to make as safe as possible. She stated they are not considering all the other children from Cave Spring that have to travel that road daily to get an education. She stated on a Saturday that will be her children playing outside with that kind of noise, and that kind of pollution. She just hopes they deny it and think about those who live in this county, where the owners of that brick company do not.

**Allen Garmony**, stated he has listened to both sides of this, and neither side has mentioned the pollution side of it other than water. He stated our trees and vegetation put off oxygen. This is going to be a mining operation, which will take away the trees. He stated these trucks that are gas or diesel are still putting out pollution. He thinks that should be addressed too.

**Jimmy McEver, 4275 Fosters Mill Road, Cave Spring, Cave Spring**, stated they have been there twenty years, and raised their family there so this would really be different for them. He stated he is opposed to it, but if it does happen, he does see that they have given a reason for changing the variances. He stated he does not see where they have said they could not acquire more property or put larger buffers. Tonight he will go home, he will listen to the owls, and he will not hear heavy equipment. He stated if it is going to be that way, he thinks they need to keep the buffers, and they need to get a bigger piece of land. They need to prove to the Board they cannot do that first.

**Rebuttal:** Mr. Fountain stated this mining operation is not a big mining operation. He stated the trucks are not 18-wheelers, they are tandems. This is not a big impact on the area at all. He stated that he thinks there are about 3,600 and some odd vehicles trips on that road per day now. He stated if they add 53, what do they have, a little less than 1%. That is not a big impact, and that is all he is going to address on that. He stated as far as the water is concerned, there is really no science to explain why anybody would think that 40 feet of clay and shale root being removed would affect the water for Cave Spring. There is no connection whatsoever between the two. The water at Cave Spring is way down in the carbonate system. There are some springs in the area. He stated he has never seen the springs that Mr. Proudfoot spoke of. The adjacent neighbor, Steve Hicks, spoke with him about his back at one of the earlier hearings. He stated he went out last Saturday to look at the property and springs with him, to give him an opinion on what he thought. His opinion is those type springs will not get hurt by this mining operation. He stated the best he can tell, those springs are being fed by the carbonated aqua system. They are pressurized, and they are in the pressurized system. He stated clay and shale is an unpressurized system, in what is called an unconfined unit. He stated when you take it out, nothing is going to happen

to Cave Spring and the underground aqua system that feeds that general area. He stated he would not stand here and tell them that if he did not professionally believe it, and he has been at this for about fifty years now. As far as traffic, and that sort of thing, they have to make their own judgment on that. He stated the geology of that area protects this mine site from contaminating anything. He stated the surface runoff that was spoken to, he believes Ms. Morgan had told him that she has been flooded, and there has not been a mine on that property yet so she had flood problems already. He stated anything that they do on that site to control stormwater will probably help with the flooding problems that she might have in the future, and it will be designed to handle settlements. Everything will be to state and county standards to protect the surface. He stated all of those things are not complete yet, because they have to take this a step at a time. He stated General Shale knows what they are doing as they go through this process.

Chairman Jennings asked Mr. Fountain have wells been drilled to determine the water table at this site. He asked how deep is the water table related to this. Mr. Fountain stated they did not hit any water tables while they were drilling. He stated all the prospecting holes put on that site did not get into the water tables, and this is his point. Chairman Jennings asked when were those drilled. Mr. Fountain stated two years ago. Chairman Jennings stated so they have attempted to determine the level of the water table, and in the wells that have been drilled have not achieved that. Mr. Fountain stated what they did was to prospect the property for shale and in doing that they know whether or not they have encountered the water table. He stated they did not. He stated they are not going to mine below the depths that those holes were drilled, and probably not even as deep as some of them were drilled.

Mr. Archer stated he could not understand Sue Hiller and her comments. He stated she may have covered this, but General Shale wrote a letter offering to make a commitment that at the conclusion of this mining operation they would comply with a condition to put this property back to S-R or some kind of residential. He stated they really did not want to ask for H-I, but the reason they asked for H-I is because Floyd County's Zoning Ordinance and Mining Ordinance happens to put mining in an H-I classification. He stated a lot of counties, like the county that he is from, it is in a mining classification, which is just a classification called mining. He stated if they restrict the activity that can be done in that H-I zoning classification, should they decide to grant it, then restrict it to mining with the requirement that twenty or thirty years from now when they get through mining it, it will be put into S-R zoning. He stated under the requirements of the DNR and EPD, they have to come back and reclaim that property. He stated when they get through with it, as they have with other sites that they have mined, it will be a flat piece of property. He stated it would be more suitable for residential development when they get through with it than it is today.

Mr. Archer asked the Board if they are considering both the variance matters now, or just the zoning. Chairman Jennings stated this is a hearing on the zoning request. He stated the variance is a separate issue. Mr. Archer stated at a later time when they open that hearing he will ask that these comments be carried over to that

hearing so they do not have to say everything twice. He stated with that he respectfully request that they grant their request to table this request so that all of these matters can come up at the February 26, 2008, 6:00 p.m. meeting, with the variance request that they have on this agenda for the First Reading.

Mr. Storey stated he thought maybe he could clarify the situation on the past drilling that they have done. He stated they drilled somewhere in the neighborhood of about 50 exploration type holes to determine the material that is out there. He stated there was minimal amount of moisture that ever appeared in those holes, and it would not be considered a viable water source in any way. He stated the aquifer that is in question is at much greater depth than the depths they will be mining to. It is estimated to be 900 to 1,000 feet deep there, and they did not drill any holes that deep. Chairman Jennings asked in the operation, if he understands it, would not include any blasting, is that correct. Mr. Storey stated that is correct.

**Andy Havens, 66 Highlander Trail**, stated he would have like to speak earlier, but in respect for time he will keep his comments limited to the comments that those opposed have stated. He stated one thing a gentleman mentioned in reference to this is not something they would want in their back yard. The Highlands Subdivisions, off Burnett Ferry, is still in the process of being built. He stated as you come into the subdivision there is a road that goes off to the right, and they have two pieces of equipment, which they use to clear the area. The road has been cut, and the concrete poured for the gutter ways. He stated this is his backyard. What General Shale is proposing is less visible than this is in a subdivision. He stated they have made agreements to stay within the buffer zone away from the road. It is not something that they are going to see. He stated in addition to that, the equipment that is sitting on this property that he sees everyday when drives home is in poor repair. He stated he can tell them first hand as an employee they take great effort to maintain all of their equipment to the highest standards so that is kept in good repair.

**Danny Story, 303 Reeceburg Road**, stated he is an employee of General Shale Brick, and he has been there almost four years, just a little less than the time the company has been there. He stated these people are mean on clean, when they strip mine and things like that, it will be clean when they finish with it.

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

YES	NO
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Commissioner Fricks	
" Lumsden	
" Mayes	
" Whitefield	
Chairman Jennings	

## Motion Carried

**Discussion:** Chairman Jennings stated so if he understands what their choices are, they could move to approve this request for rezoning. Deny this request for rezoning. Table this request for rezoning, which they have been asked to do, and that would basically put it on their agenda for the February 26, 2008 meeting. Or simply take no action, which in essence tables the action on this request, and it would be brought up at another date. He stated one of the issues if they decide to table the request, they can then vote to ask to re-advertise, and hold another public hearing because if they table it they do not necessarily have to hold another public hearing at the subsequent meeting. He asked County Attorney Manning if that is correct. County Attorney Manning stated he thinks that is right. Mr. Manning stated there was some discussion earlier about the possibility that representatives from General Shale might be meeting with Mr. Guldenschuh. He stated that was one of the reasons he said they might want to have another public hearing, if that meeting took place. He stated if that is not going to take place, and they decided to table the matter, in their wisdom they might not want another public hearing since they have had a lot of input today, but that is to their discretion. He stated they are required to have one public hearing, which they certainly had today, and if they wanted some additional input, he does not think there would be a problem with having another one as long as they have heard from all sides.

Commissioner Fricks made a MOTION to Table the rezoning request with an additional public hearing advertised and held on February 26, 2008. SECOND by Commissioner Mayes.

**Discussion:** Commissioner Fricks stated this is a real complicated issue. He stated they have to consider the convenience of the public, but they also have to look at the impact of both sides here. He thinks if they have any questions they should forward it to the parties that can answer the questions for them. He stated there are some things that have been brought up today that have not been definitively answered. Commissioner Whitefield stated he heard two or three people in the audience that had questions that were rhetorical in nature, and he believes they would like some of those answers. He requests that any documentation be provided to these homeowners that would assist in getting those questions answered if possible. Chairman Jennings asked if they table this for the next meeting, does that give adequate time for advertising. County Clerk Arp stated yes, it does. Chairman Jennings stated the Commission is taking this request very seriously. He stated they definitely have some questions, they have heard some information and evidence, and he is hearing that they would like to continue this discussion. He stated they recognize the potential inconvenience for persons to come back to another County Commission meeting, and they apologize for that, but having due diligence and adequate deliberateness on this particular issue is certainly merited in this community. VOTING:

YES

NO

Commissioner Fricks  
" Lumsden  
" Mayes  
" Whitefield  
Chairman Jennings

Motion Carried

- 4. FILE #01-2008MOV, REQUEST VARIANCE FROM §2-15-6(c) OF THE FLOYD COUNTY CODE TO ALLOW SURFACE MINING ON A SITE LESS THAN 200 ACRES IN SIZE; §2-15-6(d) TO ALLOW SETBACKS OF 200 FEET FROM ADJACENT LANDOWNERS AND 100 FEET SETBACK FROM STATE ROUTE 100, FOSTERS MILL ROAD, AND TO ALLOW SHIELDING TO CONSIST OF NATURAL VEGETATION WITH NO EARTHEN BERMS, AND §2-15-6(e) TO ELIMINATE FENCING REQUIREMENT ON PROPERTY LOCATED AT 4607 FOSTERS MILL ROAD, SW. ZONING MAP D18 – PARCEL 011, 013, 014. (S-R SUBURBAN RESIDENTIAL):**

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

YES NO

Commissioner Fricks  
" Lumsden  
" Mayes  
" Whitefield  
Chairman Jennings

Motion Carried

Chairman Jennings stated basically what they are looking at are the variances from the Floyd County Code Surface Mining Code that was alluded to earlier. He stated they have opened the Public Hearing. They will hear comments in support of and in opposition to these requested variances, and close the Public Hearing because the wish of the Commission would be to table any vote on this request.

**Support:** David Archer, 43 Robin Drive, Cartersville, stated he represents General Shale in this variance request and other matters. He stated they will have not all of the same people, but some of the same people, because although these requests are similar, they are not the same. He stated they have specific requests for variances to some extent, and to most extent, trying to get the mining ordinance, which this variance request addresses to be consistent with the ULDC mining chapter. He stated at the conclusion of this hearing they will again ask, and do now ask, that they

table this so that it can be heard consistent with the First Reading that they have on their agenda of the variance request that will come up at the February 26, 2008 meeting.

**Greg Bowles, 100 Hill Street, Kingsport, Tennessee,** stated he would like to address in general this request for variances for buffers, fences, and all these sorts of things that they are asking for. He stated they have been successful in the past at maintaining sufficient distance with heavily wooded areas that minimize exposure of their activities. They have shielded just through the mining process and through use of topography along with the trees so they really do not feel that there is a need in this instance for berms, fences, and things of that nature. He stated they respectfully ask that they approve their request for these variances.

**Opposition: Susan Harrell, 5109 Fosters Mill Road, Cave Spring,** stated she and her husband moved there two years ago. She stated her husband has lymphoma, and they moved to Cave Spring so that he could live a more stress free life to fight this disease. She stated his immune system is suppressed, because he has lymphoma, and she is asking the Commission if they do grant the special use permit that they do not grant the variances. She stated an operation like this is going to create a great deal of dust, and with his suppressed immune system her husband is susceptible to upper respiratory infection. She stated to allow these variances to give them 200 feet from the property edge, is going to create more dust for the residences. Therefore, it will jeopardize his health. She has been through this before in a county that she moved from. She stated she is not aware of what all is in this dust, but she does know that at a lot of the mining operations the dust is carcinogen, so they are not only taking the beauty of the land away they are also putting everyone in the areas health in jeopardy.

**Steven Hail, 51 Cedartown Street, Cave Spring,** stated specific to the issue of berms, fences, and the original committee, a berm does more than just shield an area visually. He stated a berm provides some noise relief, dust relief, and if there is mining at night some relief from light pollution. Fencing protects residents, children, and animals from getting in. He stated a so-called tree buffer would not. The issue of the particulate matter from mining can be carcinogenic because of the fine nature of the particles. He stated if the mining operation cannot exist without the variances, it needs to go elsewhere. He stated they cannot simply say they have to have this raw material so they can go wherever they want, and change whatever ordinance they need to change.

**Mike Haas, 4624 Fosters Mill Road, Cave Spring,** stated as he mentioned before General Shale is coming to them and asking for these variances as to standards they have set in this county. He stated they are asking to reduce the buffers, and wanting to use trees to block the view. He asked if they reduce what they require with these trees, when the foliage is off during the wintertime, is it going to keep the view down from getting into the facility that they are proposing to build. He stated as he said before, if this is critical to the success of their business, why do they keep asking for variances. He asked why are they not moving forward with what they currently support.

He stated he never did get an answer of where the entrance is going to be, nor did he get an answer of who they talked to for the decel/accel lane with the DOT.

**Bob Morgan, 4529 Fosters Mill Road, Cave Spring,** stated Floyd County Commissioners are responsible for upholding the Floyd County Codes. He stated and in this case, where surface mining is coming into this area, if they grant these variances they are doing an injustice to the county codes, to the voters, and residents of this area. He stated he would highly recommend that they deny the request for variances. He stated if a company cannot come into an area and follow the codes, then he suggests that they go to another county that they can follow the codes.

**Jimmy McEver, 4275 Fosters Mill Road, Cave Spring,** stated he spoke earlier that he disagrees with giving the variances when they have not proved they need them. He stated to give them some history of this, they came to him nearly two years ago, and he has known of this a while. He stated they approached him wanting to buy a piece of property from him. They negotiated on that piece of property, and what it came down to is there is another piece the same size that is near that he wanted to take and turn the money around to keep from paying taxes on it. He stated they have had the option to buy a new piece of property and not even need the variance for the acreage because the piece of property has 40 acres. Asking for that is unnecessary. He stated as far as the buffer it is not just the visual site, it is also the wider that buffer is the more noise it will muffle. It would also clean the air better so there are more reasons than just visual to keep those buffers.

**Rebecca Branham, 8877 Cave Spring/Cedartown Road, Cave Spring,** stated in terms of the noise she also wanted to mention it is not just mining noise. It is all of the truck noise, which can be quite significant on a mining site.

**J. L. Dunn, 4860 Fosters Mill Road, Cave Spring,** stated he would just like to remind the Commissioners the numbers of years ago when Berry allowed the rock quarry to be out there. He stated now they know the problems that Berry is still having. He stated all the money that went into pumping concrete to take care of that property. The draining of Victory Lake. Also when the Commissioners decided they wanted General Electric to come here, who would have known the surrounding community would be like it is today.

**Earl Lindsey, 4480 Fosters Mill Road, Cave Spring,** stated he is just across from Bob Morgan's place. He stated he was not going to say anything, but talking about the noise made it necessary. He moved and bought a house out there. He stated it is a nice neighborhood, and he expects the property values to go up. Both of those items are at risk here. He stated he is 71 years old, and he does not know how much noise there is going to be with front-end loaders, and bulldozers, but whatever he can hear from his house everyday he is going to be listening to it the rest of his life. He would like to ask them to deny this request.

**David Guldenschuh**, stated there are certain facts that are not going to change. He stated they know them now, and they are not going to change three weeks from now. They impact the zoning issue, and they impact this variance before them. He stated those facts are that they are being asked from an unprecedented standpoint to rezone a suburban residential area to heavy industrial. They are being asked to agree to multiple variances in order that they may use this land from an ordinance that was designed to protect the citizens of this county. He stated among those variances they are supposed to have a minimum of a 200-acre lot, and they have a 177-acre lot. There is a reason for that minimum. He stated there is a requirement for buffers. They are being asked not to go forward with those buffers. He stated that he submits to them that if these variances are not granted there probably will be no mine. They come together. He stated the reason for those buffers is to protect the neighboring citizens, and other citizens of this county who may be in other areas that may be subject to mining requests. They are being asked to vary the setbacks from, in one case under the mining ordinance 1,000 feet to 200 feet, which is the ULDC. He stated there are other setbacks that are being requested, such as mining within 50 feet of certain retention ponds, and things of that nature. They know it is not going to change. That in this suburban residential area this company will come in, and while they will be mining, they will be stripping 177 acres of all of its vegetation, thereby resulting in things such as dust. He stated not only that, but there are more variances to come at the next meeting. He submits to them if they do all of the things that are being requested of them there are no other questions to be answered. Knowing what they know now they will effectively repeal the ULDC and Mining Ordinances, and provide absolutely no protection to residents and citizens of this county if they move forward with this request. He stated it is not a difficult issue. It is a very easy issue. These laws and rules exist for very good reasons. He stated they are being asked to basically ignore all of them, or to grant exceptions. They are going to have the same thing in front of them, and he submits to them that by tabling it they are doing nothing more than pushing somewhere down the road the same issues that they are going to have to decide. He stated they may get additional information, but it is not going to change those basic facts. He is asking them to deny this variance so that this thing is over with, and they do not have to have another thirty-five citizens come back before them.

**Rebuttal:** Mr. Archer stated he and Mr. Guldenschuh have talked about this. They are going to get together, and share information. He stated he would like to speak to the people in attendance by speaking through the Commissioners, which he thinks he is supposed to do. He stated he will hang around after the meeting if they want information, such as the gentleman wanting the traffic information. They can tell him who they are, and how he can get in touch with them. He stated he can e-mail it, fax it, or bring it to them personally. He has already done some of that, and he will do some more of it. He stated he expects these opponents to not change their minds, but what he does want to do is have these opponents object them on the facts. Not on myth. Not on exaggeration or on unjustified fears. He stated what General Shale has done is go to an extreme effort to produce more information than he bets any of them have ever seen as to hydrology and geology issues. They have not one, but three different opinions of geologists and hydrologists that give the same conclusion. He stated the

neighbors have a right to object, but they do not have a right to get a denial based just on that objection. They have to have a reason for it. He stated Mr. Guldenschuh says that there is a reason for these rules to be in the ordinance. He stated he submits to them there is a reason that they recently adopted a variance provision to the mining ordinance, which is what they are asking them to exercise. He stated it is to vary a requirement when it is a hardship or an impracticality as applied to a particular property owner. He stated he would submit to them that General Shale has rights in this matter too, as do the neighbors and they want to respect that. He stated they will get with them and work out every detail they can. He stated they will do that before they come back. He again respectfully request that they table this so that it will come up at the next meeting, and all of this can go up or down at the same time during that meeting.

Mr. Bowles stated he would just like to address a few of the remarks that have been made. He stated the reasoning behind mining ordinance, as he thinks everyone is aware, is due to past experience with large quarries, which they are not. That is the reasoning behind them asking for these variances, because they feel they are an entirely different type of operation. He stated in looking at their existing mine on Turners Bend Road, and comparing that to the Florida Rock Quarry he thinks it is evident. One thing that has not really been mentioned is their mining procedures specifically. He stated he would like people to keep in mind that they do not operate year round. They need good weather to operate, and they make hay while the sun shines, so to speak. He stated this year for example, they completed their mining in a six-month period, so they are not mining year round. It varies as to what they do. He stated one other thing he wanted to address is, he had a hard time hearing Mr. McEver so he is not sure the full content of what he mentioned, but they have been in discussions trying to acquire other property. They would like to be able to avoid this 200-acre variance requirement, and had made efforts to do that, but they have not been able to come to an agreement yet. He stated they are working to do that, and will continue to work to do that.

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

*Commissioner Fricks left the meeting prior to the conclusion of the public hearing.*

YES	NO
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Commissioner Lumsden	
" Mayes	
" Whitefield	
Chairman Jennings	

Motion Carried

Chairman Jennings stated again the Commissioners have the option of approving, denying, tabling or taking no action on this request, which essentially tables it.

Commissioner Mayes made a MOTION to Table the variance request with an additional public hearing advertised and held on February 26, 2008. SECOND by Commissioner Whitefield. VOTING:

YES NO

Commissioner Lumsden  
" Mayes  
" Whitefield  
Chairman Jennings

Motion Carried

### **ULDC REVISIONS**

**1. REVISE OR DELETE ARTICLE 6 CONCERNING BUFFERS.  
(PLANNING COMMISSION RECOMMENDATION: APPROVE  
REVISION [VOTE: 10-0]):**

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

YES NO

Commissioner Lumsden  
" Whitefield  
Chairman Jennings

Motion Carried

Chairman Jennings asked is there anyone wishing to speak in favor or opposition of the proposed ULDC Revision. Seeing none, he asked Ms. Hiller to give a brief overview of the revision. Ms. Hiller stated the code currently has a provision in it that allows people to reduce the buffer to 5-foot without going to the Zoning Board to propose any mitigation, or any special intense buffers within that shortened distance. She stated with the use of that 5-foot provision, they are ending up with situations where residential property is not adequately shielded from either industrial or commercial property and this would remove that. She stated the reason they are being asked to remove the exception for heavy industrial down to 200-foot is that there are some H-I properties that are not as large as their current code would anticipate that could be

usable for heavy industry with some intensified buffers, but if they are not allowed to reduce the buffer it maybe would not be usable.

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

YES NO

Commissioner Lumsden  
" Whitefield  
Chairman Jennings

Motion Carried

*Commissioner Mayes not present for vote.*

County Attorney Manning stated he would like to make one point that they probably recall. He stated the city took up this matter, and passed the proposed change, except they eliminated the words '*except that the buffer is required for H-I (Heavy Industrial) uses shall not be reduced below 200*', and ended the sentence with a period after the word *screening*.

Commissioner Whitefield made a MOTION to approve the proposed change as stated above and adopted by the City of Rome. SECOND by Commissioner Lumsden. VOTING:

YES NO

Commissioner Lumsden  
" Mayes  
" Whitefield  
Chairman Jennings

Motion Carried

**2. REVISE OF DELETE ARTICLE 4 AND TABLES 3.1 AND 3.2 CONCERNING PERSONAL CARE HOMES. (PLANNING COMMISSION RECOMMENDATION: APPROVE REVISION [VOTE: 10-0]):**

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

YES NO

Commissioner Lumsden  
" Mayes  
" Whitefield  
Chairman Jennings

Motion Carried

Chairman Jennings asked is there anyone wishing to speak in favor or opposition of this Article regarding personal care homes.

**Support: Deborah Malone, 4 Garret Road**, stated she is a current member of Partners for Policy Making with the Atlanta Alliance for Developmental Disabilities. She stated she is here representing her daughter, Nikki, and all other developmentally disabled citizens in their community. She stated she would like to take this opportunity to speak with the Board concerning the need for change in the ordinance for personal care homes. She stated as the ordinance now stands personal care homes housing 1 – 2 persons have use by right with limitations, and personal care homes housing 3 – 6 persons must have a special use permit. The majority of individuals with disabilities that will be living in a personal care home will be funded under the State Medicaid Waiver Program. As stated in the Developmental Disabilities Services Provider manual, Part 1, Section 11, the state allows no more than four individuals to live together in a personal care home that is licensed by the state under this program. She stated at this time she is requesting that the ordinance be amended to where a personal care home can house 1 – 4 persons by right to be congruent with these state regulations, and in compliance with the Fair Housing Act. As stated under the Joint Statement of the Department of Justice in the Fair Housing Act it is unlawful for local governments to utilize land use and zoning policies to keep persons with disabilities from locating to their areas. She stated the following is an example that was given: suppose a city's zoning ordinance defines a family to include up to six unrelated persons living together as a household unit, and gives such a group of unrelated persons the right to live in any zoning district without special permission. She stated if that ordinance also disallows a group home for 6 or fewer people with disabilities in a certain district, or requires this home to seek a use permit, such requirements would conflict with the Fair Housing Act. The ordinance treats persons with disabilities worse than persons without disabilities. She stated on page 234 of the ULDC of Floyd County and the City of Rome a family is defined as an individual, or two or more persons living together as a household. According to City Attorney Bob Brinson, and County Attorney Manning per minutes from recent Commission meetings, the Fair Housing Act was amended in 1988 to protect the rights of the disabled including personal care homes for the developmentally disabled. She stated according to the Fair Housing Act, it is unlawful to utilize land use policies or actions that treat groups of persons with disabilities differently and less favorably than groups of non-disabled persons. To take actions against, or deny a permit for a home because of the disability of individuals who live or would live there. She stated not only will the new ordinance be in congruence with state law, it will discourage unwarranted fear and division in our local neighborhoods sparked by the bright yellow special use permit sign, which strikes fear in the heart of

the bravest. She stated what the new ordinance will do is give the disabled citizens of Rome and Floyd County the right to live in their communities just like you and I do. She stated on January 10, 2008 the Planning Commission passed the amended ordinance with a unanimous vote of 9 – 0. She stated in closing she asks them to please take a moment to reflect on a time when they truly desired to be included, but were not given the opportunity. Before they vote she asks them to remember what that felt like. She thanked the Board for their time, and their willingness to do the right thing.

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

YES NO

Commissioner Lumsden  
" Mayes  
" Whitefield  
Chairman Jennings

Motion Carried

Chairman Jennings stated he believes their vote is going to be to return this revision back to the Planning Commission because the county attorney has been working diligently to address the very issues that Ms. Malone has raised. He stated they expect a new and improved article is going to come back to them that will certainly address those issues.

Commissioner Whitefield made a MOTION to refer this item back to the Planning Commission. SECOND by Commissioner Mayes. VOTING:

YES NO

Commissioner Lumsden  
" Mayes  
" Whitefield  
Chairman Jennings

Motion Carried

**3. REVISE OR DELETE ARTICLE 1, 2, 3, 4, 5, 6, 7 AND 8 CONCERNING THE NAME OF THE “BOARD OF APPEALS AND ADJUSTMENTS.” (PLANNING COMMISSION RECOMMENDATION: APPROVE REVISION [VOTE: 10-0]):**

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

YES NO

Commissioner Lumsden  
" Mayes  
" Whitefield  
Chairman Jennings

Motion Carried

Chairman Jennings asked is there anyone wishing to speak in favor or opposition of this revision. Seeing none, Commissioner Whitefield made a MOTION to close the Public Hearing. SECOND by Commissioner Mayes. VOTING:

YES NO

Commissioner Lumsden  
" Mayes  
" Whitefield  
Chairman Jennings

Motion Carried

Commissioner Whitefield made a MOTION to approve the revision. SECOND by Commissioner Mayes. VOTING:

YES NO

Commissioner Lumsden  
" Mayes  
" Whitefield  
Chairman Jennings

Motion Carried

**CHAIRMAN'S REPORT:**

**1. Appointments to Boards, Committees, Commissions.**

**a. Floyd-Rome Urban Transportation Study Policy Committee (FRUTS).**

Chairman Jennings made a MOTION to appoint Gene Clonts to the Floyd-Rome Urban Transportation Study Policy Committee (FRUTS) for a 2-year term expiring December 31, 2009. SECOND by Commissioner Whitefield. VOTING:

YES NO

Commissioner Lumsden

" Mayes  
" Whitefield  
Chairman Jennings

Motion Carried

**COMMISSIONER'S REPORT:**

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

No Report.

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

No Report.

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

**a. Acceptance of Winterberry Lane, SE and Detention Ponds in Reynolds Bend Place Subdivision on County Maintenance.**

Commissioner Mayes made a MOTION to accept Winterberry Lane, SE and the Detention Ponds in Reynolds Bend Place Subdivision on County Maintenance. SECOND by Commissioner Whitefield. VOTING:

YES NO

Commissioner Lumsden  
" Mayes  
" Whitefield  
Chairman Jennings

Motion Carried

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

No Report.

**5. Judicial Services Committee – Commissioner Jennings, Chairman**

No Report.

**6. Special Committee Reports**

**a. SPLOST Committee (Lumsden)**

**b. Work Release Committee (Lumsden, Mayes)**

- c. **Fire Overview Committee (Lumsden, Whitefield)**
- d. **Joint Services Committee (Jennings, Whitefield)**
- e. **Joint Development Oversight Committee (Mayes, Whitefield)**

There were no Special Committee Reports.

**CLERK’S REPORT:  
Consent Agenda**

County Clerk Kathy Arp stated there are two items on the Clerk’s Consent Agenda, which have been reviewed and are submitted for approval. Commissioner Mayes made a MOTION to approve the Clerk’s Consent Agenda as presented. SECOND by Commissioner Whitefield. VOTING:

YES	NO
Commissioner Lumsden	
" Mayes	
" Whitefield	
Chairman Jennings	

Motion Carried

**1. Tax Refunds:**

- a. David & Ellen Goddard, 4 Buck Trail, \$115.35
- b. Charles Howell, 26 Chalcrest Way, Cave Spring, \$147.84
- c. Tommie L. Horne, 34 East Kenora Road, \$418.68
- d. Margie T. Henry, 115 Plymouth Road, \$67.80
- e. William L. Hardin, 185 N. Avery Road, \$66.13
- f. Torris Geraldson, 2027 Little Texas Valley Road, \$75.45
- g. Ginger Cescutti, 211 Northwood Drive, \$104.72
- h. Robert Moss, 12 Horseshoe Bend Road, \$543.18
- i. Thomas & Eleanor Hamby, P.O. Box 74, Silver Creek, \$79.18
- j. Joe M. Heyman, 143 Vinings, \$21.22
- k. Avis Ivey, 2202 Village Blvd., \$243.08
- l. Teresa Kay Jones, P.O. Box 121, Cave Spring, \$34.51
- m. Earl & Donna Everett, 1331 Killingsworth Cove Road, Gurly, AL, \$17.62
- n. Deborah Norton, P.O. Box 462, Silver Creek, \$154.19
- o. Victoria S. Howard, 35 Alabama Street, Cave Spring, \$41.92
- p. S. M. Jenkins Jr., 4530 Calhoun Highway, \$105.73
- q. Seaborne M. Jenkins Jr., 4530 Calhoun Highway, \$293.31
- r. Jaclyn & Paul Jones, 710 Cedar Avenue, \$146.90

2. **Application for Alcoholic Beverage License, Mary Nell Kessler, CITGO Fuel Center, 5646 Alabama Highway. (Convenience) (Beer & Wine)**

**MANAGER'S REPORT:**

1. **CONSIDER REQUEST FROM ROME-FLOYD PARKS & RECREATION AUTHORITY TO PURCHASE GYMNASTICS EQUIPMENT:**

No action taken.

2. **DISCUSS GRANT OFFER FROM FAA FOR FY08 GENERAL AVIATION ENTITLEMENT GRANT IN THE AMOUNT OF \$150,000 AND AUTHORIZE EXECUTION OF DOCUMENTS RELATED TO THE GRANT:**

County Manager Poe stated the Georgia Department of Transportation has sponsored Floyd County's FY08 General Aviation Entitlement Grant from the Federal Aviation Administration. He stated the amount of funds that will be available to Floyd County is \$150,000.00. He recommended they approve execution of any documents related to pursuing the acceptance of these funds from the FAA and the DOT.

Commissioner Whitefield made a MOTION to approve the Manager's recommendation concerning documentation for the FAA Grant. **SECOND** by Commissioner Lumsden. **VOTING:**

YES	NO
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Commissioner Lumsden	
" Mayes	
" Whitefield	
Chairman Jennings	

Motion Carried

3. **APPROVE CONTRACT FOR PARKING DECK CONSTRUCTION AT THE FORUM: (2006 SPLOST)**

County Manager Poe recommended that the county enter into a contract with Dunn Southeast Incorporated d/b/a R.J. Griffin & Company for the Floyd County Forum Parking Deck.

Commissioner Lumsden made a MOTION to approve the Manager's recommendation to approve the contract for the parking deck construction at The Forum. **SECOND** by Commissioner Mayes. **VOTING:**

YES NO

Commissioner Lumsden  
" Mayes  
" Whitefield  
Chairman Jennings

Motion Carried

**4. DISCUSS AMENDMENT TO OFFICIAL TRAVEL  
POLICY REGARDING MEAL PER DIEMS:**

County Manager Poe stated they are referring this to the Administration & Finance Committee.

**5. DISCUSS RECOMMENDATION FROM GDOT  
CONSULTANT TO CLOSE CERTAIN RAILROAD  
CROSSINGS FOR SAFETY REASONS:**

County Manager Poe stated they are referring this to the Public Works Committee.

**6. APPROVE CONTRACT FOR COOSA VALLEY TECHNICAL  
COLLEGE HANGAR AT RICHARD B. RUSSELL REGIONAL  
AIRPORT:**

No action taken.

**4/5 VOTE REQUIRED**

**7. CONSIDER REQUEST FOR FUNDING FROM  
UNITED ARTS COLLABORATIVE:**

County Manager Poe requested that this item be placed on the Agenda.

Commissioner Mayes made a MOTION to put the item on the agenda.  
SECOND by Commissioner Whitefield. VOTING:

YES NO

Commissioner Lumsden  
" Mayes  
" Whitefield  
Chairman Jennings

Motion Carried

County Manager Poe stated the United Arts Collaborative met with them in Caucus today, and requested that Floyd County team up with the City of Rome, and hopefully some other private partners who are interested in this endeavor to develop a Comprehensive Cultural and Heritage Community Plan. He stated that would require the hiring of a consultant to complete such a plan. They covered what the potential cost could be to do that plan, and he believes the recommendation was that the county would be willing to commit up to \$7,500.00 to be a partner in developing the Comprehensive Cultural and Heritage Community Plan.

Commissioner Whitefield made a MOTION to commit up to \$7,500.00 to be a partner in developing the Comprehensive Cultural and Heritage Community Plan, with the condition that the City of Rome match their portion of that funding. SECOND by Commissioner Lumsden. VOTING:

YES NO

Commissioner Lumsden  
" Mayes  
" Whitefield  
Chairman Jennings

Motion Carried

**ATTORNEY'S REPORT:**

No Report.

**ADJOURNMENT:**

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

YES NO

Commissioner Lumsden  
" Mayes  
" Whitefield  
Chairman Jennings

Motion Carried

**FLOYD COUNTY BOARD OF  
COMMISSIONERS**

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**JERRY JENNINGS, CHAIRMAN**