

March 24, 2009

**REGULAR MEETING
FLOYD COUNTY BOARD OF COMMISSIONERS
March 24, 2009 6:00 P.M.**

PRESENT: Chairman John Mayes, Commissioners Irwin Bagwell, Garry Fricks, Eddie Lumsden and Chad Whitefield.

OTHERS

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

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

INVOCATION: Commissioner Whitefield led the Invocation.

PLEDGE OF

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

ADOPTION OF

MINUTES:

Chairman Mayes asked County Attorney Tommy Manning if the minutes were in order. Mr. Manning stated the minutes had been reviewed and were in order. Commissioner Lumsden made a MOTION to adopt the minutes of the Regular Meeting of March 10, 2009. SECOND by Commissioner Fricks. VOTING:

YES NO

Commissioner Bagwell
" Fricks
" Lumsden
" Whitefield
Chairman Mayes

Motion Carried

PROCLAMATIONS:

ENTER INTO MINUTES MARTHA BRYANT RETIREMENT:

Chairman Mayes stated the Proclamation was presented at a previous function.

FIRST READINGS:

**(PUBLIC HEARINGS TO BE HELD
APRIL 14, 2009 AT 2:00 P.M.)**

**1. ORDINANCE TO AMEND FLOYD COUNTY
CODE SECTION 2-7 RELATED TO YARD
DEBRIS REMOVAL SERVICES (2009-002A).**

Chairman Mayes stated a Public Hearing will be held Tuesday, April 14, 2009 at 2:00 p.m.

**PUBLIC HEARINGS:
(FIRST READINGS HELD
MARCH 10, 2009)**

**1. FILE #31-2009SUP, REQUESTS SPECIAL USE PERMIT
FOR MANUFACTURED HOME ON SUBDIVISION LOT
IN SUBURBAN RESIDENTIAL (S-R) ZONING DISTRICT
ON PROPERTY LOCATED ON MAYO ROAD. ZONING
MAP L13X – 033B. (PLANNING COMMISSION
RECOMMENDATION: DENY [VOTE: 9-0]):**

Chairman Mayes asked Ms. Sue Hiller, Planning Department Director, to give a brief overview of this request. Ms. Hiller stated the subject property is at the corner of Sheffield Road and Mayo Road. She stated the surrounding properties are developed with site built single-family dwellings. She stated some of the lots within the subdivision, and surrounding the subdivision, are undeveloped. Because this is a subdivision within the S-R (Suburban Residential) zoning district, it requires a special use permit to place a manufactured home on the property. She stated this is in an area that is not located within a flood plain. There are no mapped wetlands. She stated services and utilities are available except public sewer. Both Mayo and Sheffield Road are classified as local streets. She stated generally the standard for approval of a manufactured home in a subdivision is compatibility with the development on the adjacent properties. In this area site built single-family dwellings are the predominant development, and approval of a special use permit for a manufactured home would introduce a different development pattern into that area. She stated for that reason the staff recommendation was to deny.

Chairman Mayes declared the Public Hearing open. He reviewed the procedures for Public Hearings, and asked if there is anyone who wishes to speak in support or opposition.

Support: Sherrie Wagner, 103 Mayo Road, stated she owns this property. She stated when she purchased this property she was not informed that there were any restrictions at all pertaining to this property, that is a vacant lot, nor the land that is connected with the house. She stated from what she understands, they are saying that there is not enough land there. She has photos of another manufactured home that sits

at the corner of Wayside and Sheffield. The photos show that this manufactured home is maybe three feet from the other dwelling, and then there is another dwelling on the other side of that one that is maybe three to four feet. She stated she spoke with Mr. Crumbley, and this is really the first time she had heard about any of the restrictions on this property. He told her that she was not allowed to put a tent out there, which of course, she would not put a tent except for her grandchildren to have a good time when they spend the night. She stated he also said that she could not have any shambles, no shacks, or anything like that, yet he has a barn on his property that is collapsing. He has a well house that sits directly at the end of her driveway that is a hazard, and it is falling apart. She stated she does not know if snakes are in there or not, but one of her grandchildren could be bitten by a snake that is hiding inside that old well house. It needs to be removed, and as far as she is concerned, it is considered a shack or a shamble. She stated he has different types of old trucks, and semi-trailers, sitting around on the property.

Something else that is a concern to her is that they have a transmission shop at the end of Sheffield Road, which she thinks should be zoned as a commercial property. She stated she was not even aware of that until after she purchased the property and had moved in. She said the way she looks at it, that puts her grandchildren in danger if they were to be run over while they are riding their bicycles in that street by the cars that come in and out of the transmission shop on Mayo Road. She stated she understands too that she is allowed to open a business on the vacant lot, so she thinks that these restrictions were put up to benefit Mr. Crumbley, as well as the Sheffield family due to the transmission shop at the end of the street. She does not think it is fair to her. She stated her daughter wanted to put a manufactured home there because she (*Ms. Wagner*) is not getting any younger, and from time to time, she needs help and assistance. That is why her daughter would want to put a home there, so she can be there in case something happened. She stated she does not think it is fair that Mr. Crumbley put restrictions on property that she owns, and that he thinks he can tell her what she can and cannot do. If he has restrictions on his own property, that is fine and wonderful, but not on her property that he does not own. She stated she even asked the Planning Commission about turning her garage into an apartment, and he tells her that he is going to fight her on that issue too. She does not think that is fair either. She stated she has all of these photos if they would like to see them. She presented the Clerk with the photos of the property. (Photos on file in Clerk's Office)

Oppose: Jeremy Crumbley, 35 Pineridge Drive, Silver Creek, stated he has copies of the warranty deeds from where the property was sold in 1998 to a Mr. David Boswell. He stated he eventually sold the house to a different individual, and when they foreclosed, he got the property back. Ms. Wagner is the current owner of the property, but on every Warranty Deed listed on record, it states clearly 'said property is conveyed subject to those restrictions as set forth in Exhibit "A" attached hereto.' He stated that is listed on every Warranty Deed from March 3, 1998 when Jerry and Carol Crumbley sold the property. He stated as far as comments about the surrounding land, the well house across the street was actually an existing well house for the house before county water was placed. It is across Mayo Road, and it is not in use right now. He

stated the trailer she is speaking of, at the corner of Sheffield Road and Westside Road, has been there as long as he was old enough to remember and he is thirty-three years old. As far he knows, the properties that his father auctioned off were the only ones that had restrictions put on them as a condition of sale to promote the development of the area to go up, not down. He stated that is what he is asking for. (Copies of warranty deeds on file in Clerk's Office)

Hugh Sheffield, 65 Sheffield Road, stated he will start off with the trailer that is at the end of Sheffield Road. He stated that trailer belongs to Mr. Dowdy, and it is on a small portion of the land. Also, according to the real estate agent, that trailer is scheduled to be moved. He stated as far as he knows it was grandfathered in, because it had been there so long before the rules actually applied to it. He lives exactly to the west of that property across the street. He stated the county in the past has had to come out and put in two big pipes going under the ditch on Sheffield Road, because the road lays so low, just to take care of the water that comes down through there. He said they had the problem solved until a big rain came. He stated it filled the ditch up, came across the property they are speaking of, and all of it wound up in his yard. The shop mentioned at the end of the road has been there since 1946, around the time that the Mayo house was built. He stated speaking of the roads and her grandkids, ninety-nine percent of the people that come down Mayo Road never stop at the stop signs there. He has almost hit cars there himself that come out of that road. He stated if it were not for his dad, Sheffield Road would not be paved right now. It is under his name, and he is the man that had it paved. He stated there is 1800' of road, and the county finally took over maintaining it. He said when that ditch fills up, the water runs over the road. He stated there is no way to stop it. It backs up across the road and on that property, and then ends up in his yard.

He asked so what is going to happen when they put a septic tank in there. He stated Mr. Crumbley thought about building a house on the property, which is seven to eight feet higher than this property they are speaking of. But he would have to put in a special septic tank and pump it up the hill just for it to pass, because the land will not perc. The property with the well house on it, which is across from his property, stays wet all the time so it will not perc. He stated you can dig a whole out there, go back three days later and it will still be full of water because the land is so hard. He cannot see how this land will perc to allow a trailer to be put there. He stated the lot is 34,398 square feet. The county allows that is has to be 33,075 square feet to have a septic tank on it, if it will pass. He stated if they take into consideration that the Planning Department takes off "x" amount of feet for drainage when any piece of property is sold, it cuts the property down to where it will not perc because it is too small. He stated the county has to take that drainage right-of-way to where they can get in there to clean the ditches when they stop up. He said he hopes it does not pass because the real estate agent he spoke with said on eye appeal alone with a trailer being across the street from his house would cut his property value fifteen to twenty percent, and he knows the county is not going to cut his tax millage rate down fifteen to twenty percent. He thanked the Board.

Rebuttal: Ms. Wagner stated from what she understands the right-of-way is 5' from the middle of the road over, and the water does stay there, but only after it has rained for several days on end. She stated Mr. Sheffield's property also retains water after it has rained for several days. She said that the only time that the lower part retains water, is when it has rained for several days on end. She stated of course it runs down in the ditch, and it does go over the road. When it did rain for several days, it was coming so fast down the main ditch there that it did have the road flooded, but Mr. Sheffield's land flooded too. She stated he complained it would lower his property value, but she thinks if a manufactured home were placed there on that property, it would increase the value. She stated it would also raise revenue for the county, not just what she pays in taxes, but it would be extra taxes for the county for the manufactured home to be placed there. Regardless if that shop has been there since 1900, it does not matter. She stated the thing about that is that should be zoned as a commercial property down there because it is a business. She said from what she understands, she can open a business on that lower lot, and apparently there are no restrictions on what type of business she can open. She said she thought about having a Saturday flea market sale. She stated since Mr. Sheffield and Mr. Crumbley are so interested in her property, and what she does on that land, maybe they need to purchase that land and house back from her, then they can do as they wish. That is just how she feels about it. She stated it is not fair to her that she owns this land and they are telling her of all these restrictions, but yet on the Crumbley property the barn is falling down, the well house is falling down, and there are farm animals in that pasture. She thinks it was to benefit them, because Mr. Sheffield's family, their houses are all right there together. She stated Mr. Crumbley's mother and father actually bought the property where the house is. As years went by, and as he got married, she is sure he built a home or placed a dwelling up there. She stated now that his dwelling is there, that is when he stepped in eleven years ago and put those restrictions on it when they auctioned it off. Of course, he may have restrictions on his property and that is fine because he owns his property. She stated she owns her property and she thinks within reason she should be able to do what she would like to do too. She thanked the Board.

Chairman Mayes asked if there was anyone else who wished to speak on the matter. Seeing none, he declared the Public Hearing closed, and called for a motion.

Commissioner Whitefield made a MOTION to deny the request for special use permit. SECOND by Commissioner Lumsden. VOTING:

YES NO

Commissioner Bagwell
" Fricks
" Lumsden
" Whitefield
Chairman Mayes

Motion Carried

Discussion: Commissioner Whitefield stated he would like to take a second to clear up a couple of misconceptions. He stated to save on any trouble down the road, in the suburban residential zoning district, Ms. Wagner would not be allowed to operate a business. He said his motion is not based on the civil matter of the covenants of that neighborhood. He stated it sounds like there may be some emotion, and some mediation that needs to take place between neighbors, but his motion is simply based on the characteristic of that area.

2. FILE #32-2009SUP, REQUESTS SPECIAL USE PERMIT FOR MANUFACTURED HOMES ON TWO (2) SUBDIVISION LOTS IN SUBURBAN RESIDENTIAL (S-R) ZONING DISTRICT ON PROPERTY LOCATED ON KRAFTSMAN ROAD. ZONING MAP E14 – 035, 037. (PLANNING COMMISSION RECOMMENDATION: DENY [VOTE: 8-1]):

Chairman Mayes asked Ms. Sue Hiller, Planning Department Director, to give a brief overview of this request. Ms. Hiller stated the subject property is at the end of Kraftsman Road, but Kraftsman Road ends prior to that. There is a lane that goes back to the property. She stated the lots do not actually front on a maintained or opened road. The property is within a subdivision in the S-R (Suburban Residential) zoning district. Therefore, it requires a special use permit to place a manufactured home. She stated initially staff thought that the request was for a manufactured home on each of those lots, but there are underlying lots of record. The applicant indicated that he may wish to take advantage of that, and place more than just the two manufactured homes in this area. She stated there are no mapped wetlands or flood plains in the area. Services are available, but water and sewer are not. She stated water is available on Kraftsman Road, but not to the property, so any development on these lots would require permits for both septic tanks and wells. The properties that are shown are over an acre in size. She stated the total area is about four acres. Generally, the standards for approval of a manufactured home in a subdivision is compatibility with the development pattern that is on the adjacent properties. She stated in this area site built single-family dwellings are the predominant development. They try to look at the subdivision, not in areas that go beyond where that subdivision is. She stated on one of the lots in the subdivision, the tax records indicated that it could be a manufactured home, but they were not able to verify that in the field. Phil Helton looked at these in the field, and he did not recognize it as a manufactured home.

Chairman Mayes declared the Public Hearing open, and asked if there is anyone who wishes to speak in support or opposition.

Support: Rob Smith, 23 Graben Drive, stated he actually grew up on this property. He stated his father bought these lots in the mid 70's, and built a house in the middle of parcel 37A. The subject property is broken up into two tax parcels, but he talked to Mark Brown in the Tax Assessor's Office and there are actually six parcels there. He stated he would like permission to put up to three manufactured homes somewhere on these lots. The Al Simpson Subdivision was platted in 1956. He stated

there are three houses and two manufactured homes currently on that subdivision. Down at the end there is an old shop that was built in 1984. He uses that off and on now. He stated it is backed up to Mays Bridge Road and Turners Bend. He drove the neighborhood there that goes out about 9/10 of a mile, and counted eight manufactured homes and nine site built homes. From what he can tell, most of the site built homes were built in the mid 70's or older, with the exception of one that was built maybe in the early 80's. He stated in the 80's, 90's, and even under the current guidelines, there have been manufactured homes placed. One of these manufactured homes was placed in the Al Simpson Subdivision about three years ago. He stated the reason we need this special use permit, the way he looked at, is it is part of a named subdivision. He received zoning verifications from Phil Helton this morning. He stated there are six pieces of property there that his mother currently owns, and part of them are part of the Al Simpson Subdivision that is requiring him to get a special use permit. These zoning verifications give us permission, if the Board will give them permission, to get these permits. He stated his understanding is they could move in an old home, or they could build a new home, but his reasoning for wanting to put in a manufacturing home is that has pretty much been the trend in this area for the past twenty to twenty-five years.

He stated the private drive that is here that was platted in 1956. There are currently three homes and a manufactured home, but only three of those are actually using that driveway. He stated his mother lived there for twenty-five years. She moved out in 2000, but she used that private drive. He stated some of his other neighbors have used that road for many years, and there have never been any problems. He would just ask that they give him permission to use up to three of these platted properties for manufactured homes. He stated they have an approximate total of four acres.

Opposition: Larry Boggs, 440 Kraftsman Road, stated he gave the Clerk some photos, and on the back of each photo is a description. He stated all of these lots that Mr. Smith is talking about are right around a 62-acre lake that the Kraftsman's Club built there, and the land on it is not real good. He stated all the land around there is sloped, and he does not even know if the land will perc or not. Mr. Smith has not had a perc test yet. He stated he has been living out there for a little over thirty years. The road that they are referring to is just a narrow dirt road that goes from his house down to Kraftsman Road. He stated he has grandkids and great-grandkids that ride their bicycles down there because there is no traffic there. A house there has been repossessed by the bank and it is for sale. He stated HUD owns it. They are asking \$105,000.00 for it, but he does not believe they will get that much for it if they put a mobile home park at the end of the road. He stated he personally just does not want that quality of life at the end of his road down there for his family, his neighbors, or anybody out that way. There has never been a mobile home park out there. He stated they are small cheap houses. If they try to rent them out, they do not know whom they will have down there for their neighbors. He stated it would depreciate the value of everyone's house in the neighborhood, and they will have to tear up all the yards to run the water. He said it is 800' from Kraftsman Road to those lots. He stated the County Water Department will not go on private roads, because they made Mr. Smith move his meter a long time ago. He stated he has three meters in his yard right now, and for every

mobile home they put down there, he will end up with a meter in his yard somewhere and he surely does not need more. He stated if Mr. Smith puts those mobile homes there, and after a few years people decide to move out of them, they may end up sitting there as junk trailers later on. That would mess up that whole property by doing that.

Leon Cross, 459 Kraftsman Road, asked if this is passed, is it going to be passed for the future. He stated what he means is if they sell the property, and they have okayed putting trailers on there, can anyone put just anything on there and call it a manufactured home. Chairman Mayes asked County Attorney Manning if he could answer that question. County Attorney Manning stated it would have to meet the definition, and the requirements, of the ULDC concerning a manufactured home. Mr. Cross asked does that cover a travel trailer, or a junk trailer. Chairman Mayes stated his question was if we pass it, would the zoning that we vote for stand for future owners. County Attorney Manning stated yes it would. Mr. Cross stated they say that there is a manufactured home on the property, and there is, but it is about an \$80,000.00 manufactured home. He stated it is a nice home with nice surroundings, a nice yard, and everything. In fact, it looks better than a lot of houses. He stated he does not know what kind of trailers are going in there, but there used to be a restriction on there years ago. He understands that they say that has expired. He stated excuse him for saying this, but just to be frank he does not want a bunch of junk trailers, with a bunch of riff-raff living there. He does not want his property devalued for that. He stated he has lived there for years without ever having anything stolen out of his yard, car, garage, or anywhere, and he would like to keep it that way if possible.

Rebuttal: Mr. Smith stated he would like to correct a couple of things and make sure that they are clarified. He stated the house that was repossessed, his mother owned and sold in 2000 to someone else. He stated Mr. Boggs spoke about this, in 1977 his father and Mr. Boggs went into a gentlemen's agreement and bought three lots. He was about twelve or thirteen years old and he remembers it. He stated the reason they bought these three lots is that they did not want an undesirable neighbor to come in. They bought them at the same time, paid about \$2,500 a piece, and enter into that agreement that they would not put a manufactured home there. He stated in 1998, Mr. Boggs gave his half of that to his son, and they put in, as he understood from Mr. Boggs, a \$55,000.00 manufactured home. He broke that gentlemen's agreement. They have not had any words about that, and this is the first time he has ever said anything about it. He stated that manufactured home is very close to the property line. It is only about 2' away from the property line, and it does not appear to meet the set backs. He stated he could see where he would not want anything else next door to him because he is already very close. Mr. Smith stated that he has been allowed to use our yard for his yard. He stated as far as junky stuff goes, he has been building and developing in this county since 1992. He would say the things that they build are nicer things than what a lot of people have. The projects that he does are pretty nice. He stated some people may be familiar with Westberry, and some people may be familiar with Heathrow Drive. He would say that the rental property he has is probably the nicest rental property other than maybe a hit and miss house where someone has rented a house they own, and they maintain those. He stated they have kept nice brick houses that have been

there ten or twelve years. They do not have theft problems. He stated he guesses they have been fortunate that they have gotten good folks. He does not plan to build a slum trailer park. He thinks there may be some misconception there. He stated he actually has a gentleman that works for him that is about forty-five years old, and quite frankly a nice manufactured home is probably one of the best things he can afford right now to have a nice, clean place to live. That is really his reasoning for coming here today. He stated he would like to make the best use of the property. He has about six parcels all together, and he is only asking their permission to use three of those. He stated he is open to answer any questions that they might have.

Chairman Mayes asked if there was anyone else who wished to speak on the matter. Seeing none, he declared the Public Hearing closed, and called for a motion.

Commissioner Bagwell asked County Attorney Manning if the can Board limit the number of manufactured homes that can go on this property, or is that within the realm and scope of what they can do. County Attorney Manning stated he thinks that is within the realm and scope of what they can do. He stated they can limit the number of manufactured homes to a specified number if they so choose. Chairman Mayes asked Ms. Hiller if that was discussed by the Planning Commission, about how many manufactured homes. Ms. Hiller stated the Planning Commission agreed to approve the limit at five. County Attorney Manning asked was that five on all of those lots. Ms. Hiller stated yes, a total of five. County Attorney Manning stated so it is a total of five on the entire property.

Commissioner Bagwell stated he believes the nature of the neighborhood is that there are other manufactured homes in the neighborhood. He stated they can have a house that can be detrimental to the neighborhood if it is not kept up, just as a manufactured home can be detrimental to the neighborhood if it is not kept up.

Commissioner Bagwell made a MOTION to approve the request for special use permit with no more than three manufactured homes on this property of six lots.

Chairman Mayes stated the motion died for lack of a second.

Discussion: Chairman Mayes asked Ms. Hiller what was the reason the Planning Commission voted to deny. Ms. Hiller said she thinks that some of the reasons that they stated were they had some concerns about any development down that road and they had some concerns about the water situation. She stated the Planning Commission looks at the prevailing development pattern, the predominant development pattern, which in this case is site built single-family dwellings. Chairman Mayes asked what the staff recommendation was. Ms. Hiller stated the staff recommendation was to deny for the same reasons. She stated all the Planning Department looks at is the development pattern really, and staff pointed out to them that the predominant pattern was site built. There is apparently one manufactured home there. Commissioner Fricks asked Ms. Hiller what are the capabilities on the lots that exist right now? Does he have the ability to build single-family homes there currently?

He stated one of the things he noticed on the application is lots are to have 60' frontage on a county maintained road with proper infrastructure on one of these conditions of approval. He asked does that exist currently on those lots. Ms. Hiller stated in order to get a permit to build a house they do have to resolve all of those issues, however, lots of record that do not have frontage can be built upon. She stated in this case, since it is S-R, there could be single-family site built dwellings as long as they can provide the utilities. She stated they are also asked to sign a form stating that they realize that they are not on a publicly maintained road. Therefore, they may not get all of the services that other folks do. Commissioner Fricks stated it says "lots to have 60 feet of frontage on a county maintained road with proper infrastructure." He stated he understands that is what it requires for water service. Commissioner Bagwell stated that is if it is not a lot of record, but since this is a lot of record that is not applicable. He stated if we were splitting up a new subdivision, they would have to do that.

Commissioner Bagwell asked Ms. Hiller if this were approved today, just because they approve it does not automatically give the applicant the right to take a mobile home down there, correct. Ms. Hiller stated they would still have to get building permits of course, and that is conditioned on a number of different things, utilities service being one of them. Commissioner Bagwell asked so he would have to get a septic tank permit and all that, but if the land did not perc then he would not be allowed to put that there. Ms. Hiller stated he would have to provide all utilities. He asked if the water line could not be run down the 30' easement then he would have to go through the trouble of drilling a well. She stated he would have to get permits for both wells and septic tanks. County Manager Poe stated if they wanted water run to the property, those are the conditions that would have to be met. Commissioner Bagwell stated he thinks what they are trying to decide is if a manufactured home would be less appropriate than a site built home, or a home that was taken in there. He stated they are not deciding the appropriateness due to accessibility to the highway since it is a lot of record. He asked the County Attorney if that is correct. County Attorney Manning stated he agrees with that. He stated he thinks their task with deciding whether to approve the special use permit or not is to consider the criteria that is contained in the ULDC, and the criteria that Ms. Hiller refers to and addresses in the Planning Commission packet. Commissioner Bagwell stated the same obstacles of building anything down there are going to have to be overcome regardless if it is a site built home or a manufactured home. County Attorney Manning stated that is true, and the Commission is also tasked to determine whether a special use permit is consistent with the stated purpose for the zoning district comparing it to other structures in the area. He stated that would be part of their consideration as well.

Commissioner Fricks stated to Commissioner Bagwell on his motion he recommended three, but it is kind of confusing to him the way it is broken up, because they somewhat have separate lots. There are three that are contiguous to each other, and then there are two others. He stated he could understand when he was saying five because it almost breaks up one per lot, but with three if they give a special use permit there are different owners between the lots. Commissioner Bagwell asked Mr. Smith how many acres are the two lots closest to the lake. Mr. Smith stated approximately

8/10 of an acre. Commissioner Fricks asked Mr. Smith would he consider exempting the smaller lots, because he said himself he does not think they are buildable, if they give him a special use permit for the three contiguous lots. Commissioner Bagwell asked Mr. Smith would he be friendly if they allowed two manufactured homes on the three lots closest to the lake. Mr. Smith stated sure. Mr. Smith asked if there is a possibility to come back five years from now, show what they have done and the services they have, to add one in the future. Commissioner Bagwell stated he thinks anything would be possible to apply for in the future.

Commissioner Bagwell made a MOTION to approve the special use permit for the contiguous lots closest to the lake for no more than two manufactured homes.

Further discussion: County Attorney Manning stated he would like clarification through Ms. Hiller regarding these lots. He stated he thinks Commissioner Bagwell is intending to try to allow two manufactured homes on the contiguous lots owned by Mr. Smith closest to the lake. Ms. Hiller stated she would refer to that as Tax Map & Parcel E14-035.

Commissioner Bagwell AMENDED his own MOTION to approve the special use permit for the contiguous lots closest to the lake for no more than two manufactured homes, as designated on that portion of the plat highlighted in yellow and marked “Exhibit A” on file in the Clerk’s Office (which property is also the same as that shown on Tax Map E-14 – Parcel 035 and Tax Map E-14 - Parcel 037, excluding lots 8, 20 and part of lot 5 as also shown as the shaded area on the attached “Exhibit B”). SECOND by Chairman Mayes. VOTING:

YES NO

Commissioner Bagwell
" Fricks
" Lumsden
" Whitefield
Chairman Mayes

Motion Carried

3. FILE #35-2009SUP, REQUESTS SPECIAL USE PERMIT FOR MANUFACTURED HOMES ON TWO (2) SUBDIVISION LOTS IN SUBURBAN RESIDENTIAL (S-R) ZONING DISTRICT ON PROPERTY LOCATED ON NORTHSIDE DRIVE. ZONING MAP F13Z – 036, 037. (PLANNING COMMISSION RECOMMENDATION: APPROVE [VOTE: 9-0]):

Chairman Mayes asked Ms. Sue Hiller, Planning Department Director, to give a brief overview of this request. Ms. Hiller stated the subject property consists of two subdivision lots in the Morningside Subdivision. She stated one of them is currently developed with a manufactured home, and one of them is undeveloped. The

property to the south, across Northside Drive, has a manufactured home, a site built home, and a junk yard, even though it is zoned S-R (Suburban Residential). She stated the property to the east is undeveloped. To the north, there are predominately manufactured homes. She stated to the west the subdivision becomes more site built single-family dwellings. Generally, the standards for approval of a manufactured home in a subdivision is compatibility with the development pattern that is on the adjacent properties. She stated these two properties are adjacent to both site built and manufactured homes, as well as a non-residential use immediately to the south. She stated originally the applicant was just going to request the special use permit for the undeveloped lot. These are all members of one family. She stated they discussed with them the fact that in order to replace the manufactured home, if they wanted to do that, they would have to get a special use permit. They decided to include both of them in their request, but they would not be adding more than one manufactured home to the undeveloped lot. Chairman Mayes asked Ms. Hiller approximately where is this property located on Alabama Highway. Ms. Hiller stated it is on the north side of Alabama Highway just beyond Woods Road. County Manager Poe stated between Woods Road and Avery Road.

Chairman Mayes declared the Public Hearing open. He reviewed the procedures for Public Hearings. He asked if there is anyone who wishes to speak in support or opposition.

Support: Robert Brooks, Trion, Georgia, stated his intention is to place a mobile home on this property right next to his parents' property. He stated his parents will probably need help in the coming years, and he feels that this is the best way to take care of them. He stated he is going to move from Trion back to Floyd County where he lived until about ten years ago. He stated he will have a separate sewer tap. There is a county maintained road. He stated it is a separate lot. The only reason his parents lot was included was the possibility that they may one day want to upgrade their mobile home. He stated Jim Bradfield owns the property now, but he has a contract with him to purchase it after he has approval for the permit.

Chairman Mayes stated obviously this request is different from the others. He asked Ms. Hiller why staff recommended approval on this one. Ms. Hiller stated to the south of this there is a manufactured home, and to the north of it is almost exclusively manufactured homes. She stated moving back toward the west it becomes more extensively site built, but in this particular area, it is very much a mix of the two. The land use immediately to the south of this is not residential at all so it is kind of a mixed-use neighborhood already.

Chairman Mayes asked if there was anyone else who wished to speak on the matter. Seeing none, he declared the Public Hearing closed, and called for a motion.

Commissioner Fricks made a MOTION to approve the request for special use permit for a manufactured home on each of two (2) subdivision lots in suburban residential zoning district. SECOND by Commissioner Bagwell. VOTING:

YES NO

Commissioner Bagwell
" Fricks
" Lumsden
" Whitefield
Chairman Mayes

Motion Carried

**4. ORDINANCE TO AMEND FLOYD COUNTY CODE
RELATED TO HOTEL/MOTEL EXCISE TAX:**

Chairman Mayes declared the Public Hearing open. He asked County Manager Poe to give a brief description on this item. County Manager Poe stated this to amend the Floyd County Code to bring it current with what state law allows related to Hotel/Motel Permanent Resident Tax. He stated our current code exempts permanent residents from paying Hotel/Motel Tax after ten days. State code allows us to increase that permanent resident status to thirty consecutive days, before they are exempt from Hotel/Motel Tax.

Chairman Mayes asked if there is anyone who wishes to speak in support or opposition. Seeing none, he declared the Public Hearing closed, and called for a motion.

Commissioner Whitefield made a MOTION to approve the Ordinance to Amend the Floyd County Code Chapter 2-9 related to Hotel/Motel Excise Tax. SECOND by Commissioner Lumsden. VOTING:

YES NO

Commissioner Bagwell
" Fricks
" Lumsden
" Whitefield
Chairman Mayes

Motion Carried

CHAIRMAN'S REPORT:

1. Appointments:

a. Development Authority of Floyd County.

Commissioner Bagwell made a MOTION to appoint Mike Mathis to a 4-year term to succeed Paul Smith, term to expire April 01, 2013; reappoint David Johnson to 4-year terms expiring April 01, 2013; appoint Bryan Shealy to a 4-year term to succeed Eddie Wilson, term to expire April 28, 2013, and reappoint Nancy Smith to a 4-year term expiring April 28, 2013, on the Development Authority of Floyd County. SECOND by Commissioner Lumsden. VOTING:

YES NO

Commissioner Bagwell
" Fricks
" Lumsden
" Whitefield
Chairman Mayes

Motion Carried

COMMISSIONER'S REPORT:

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

a. Adopt Resolution Adopting a Revised Budget for FY2008.

Defer.

4/5 VOTE REQUIRED

b. Consider request from Magistrate Court to abolish two (2) Permanent Part-time Constable Positions in Magistrate Court and replace with one (1) Full-time Constable Position.

Commissioner Whitefield made a MOTION to add this item to the agenda. SECOND by Chairman Mayes. VOTING:

YES NO

Commissioner Bagwell
" Fricks
" Lumsden
" Whitefield
Chairman Mayes

Motion Carried

Commissioner Whitefield made a MOTION to approve the request from Magistrate Court to abolish two (2) Permanent Part-time Constable Positions in

Magistrate Court and replace with one (1) Full-time Constable Position.
SECOND by Commissioner Lumsden. VOTING:

YES NO

Commissioner Bagwell
" Fricks
" Lumsden
" Whitefield
Chairman Mayes

Motion Carried

2. Public Safety Committee – Commissioner Eddie Lumsden, Chairman

No Report.

3. Public Works Committee – Commissioner Irwin Bagwell, Chairman

a. Recommendation to accept Sarah Street NW and Detention Pond adjacent to lots 3B and 4B within Sarah Street Subdivision onto County Maintenance.

Commissioner Bagwell made a MOTION to accept Sarah Street NW and Detention Pond adjacent to lots 3B and 4B within Sarah Street Subdivision onto County Maintenance. SECOND by Commissioner Whitefield. VOTING:

YES NO

Commissioner Bagwell
" Fricks
" Lumsden
" Whitefield
Chairman Mayes

Motion Carried

4. Water Committee – Commissioner Garry Fricks, Chairman

No Report.

5. Judicial Services Committee – Commissioner Eddie Lumsden, Chairman

No Report.

6. Special Committee Reports

a. SPLOST Committee – (Fricks)

- b. Work Release Committee – (Lumsden and Mayes)**
- c. Fire Overview Committee – (Lumsden and Whitefield)**
- d. Joint Services Committee – (Mayes and Whitefield)**
- e. Joint Development Oversight Committee – (Fricks and Whitefield)**
- f. Special Transportation Committee – (Whitefield)**
- g. Special Public Safety Committee – (Lumsden)**

There were no Special Committee Reports.

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 Lumsden made a MOTION to approve the Consent Agenda as presented. SECOND by Commissioner Whitefield. VOTING:

YES	NO
-----	----

Commissioner Bagwell
" Fricks
" Lumsden
" Whitefield
Chairman Mayes

Motion Carried

1. Tax Refunds:

- a. Jennifer Bryant, P.O. Box 1327, \$645.47
- b. William Fowler, 8 Height Drive, \$103.34
- c. Edna Frances McGill, 3200 Garden Lakes Blvd., \$78.97
- d. Terry Deaton, 302 Blackberry Lane, Lindale, \$13.97
- e. Vincent Bowers, John Brown, Mary E. & A. J. Frost Jr., 111 Fairview Drive, \$19.21
- f. Bruce A. Crist, 6 Turner Springs Drive, \$58.47
- g. Heather & Christopher Earnest, 7 Turner Springs Drive, \$1.97
- h. Barbara Ann Searcy Knox & Kiara Knox, 14 Hearthwood Drive, \$2.69
- i. Patricia Hoyle, Nancy Tuck & Donna Williams, 1400 Huffaker Road, \$0.25

- j. Forestar USA Real Estate Group, Inc., 2976 Chapel Hill Road, Douglasville, \$1,668.88
 - k. North Whitefield Mini-Warehouses, LLC., P.O. Box 682, Dalton, \$98.55
 - l. Michael McDougald & Leena Minton, P.O. Box 1345, \$2.87
 - m. Kathleen M. Rogers, 245 Whippoorwill Lane, \$84.92
 - n. John F. Nichols, 3396 Taliaferra Springs Road, Lyerly, \$10.26
 - o. Heath C. Riddle, 216 Alfred Avenue SE, \$22.29
 - p. NRS Properties, 652 Chulio Road SE, \$70.78
 - q. Stephen A. & Fielding Stutts, P.O. Box 5202, \$16.37
 - r. Stephen Stutts, P.O. Box 5202, \$37.88
- 2. Authorize release and purge of personal property tax bills for tax years 1994-2001 from Tax Commissioner's roll in the amount of \$43,706.64, as per list submitted by Tax Commissioner dated March 11, 2009.**
- 3. Authorize execution of Modification 01 to the FY2009 Transportation Agreement between Coosa Valley Regional Development Center and Floyd County for the period July 1, 2008 through June 30, 2009.**

MANAGER'S REPORT:

1. AWARD OF BID FOR PRINTING AND MAILING SERVICES FOR TAX COMMISSIONER'S OFFICE:

County Manager Poe stated sealed bids were received for outsourcing the printing and mailing of tax bills in the Tax Commissioner's Office. He recommended the service be awarded to Excel Graphic Service at an estimated value of \$45,000.00. He stated the funds will be supported from the 2009 Tax Commissioner's Budget in the areas of postage, supplies, repair and maintenance, and data processing. He said they are incorporating this contract into their overall budget, and still staying within the budget that was approved for 2009.

Commissioner Whitefield made a MOTION to award the bid for printing and mailing services for the Tax Commissioner's Office to Excel Graphic Service, as detailed by the County Manager. SECOND by Commissioner Lumsden. VOTING:

YES NO

Commissioner Bagwell
" Fricks
" Lumsden
" Whitefield
Chairman Mayes

Motion Carried

2. APPROVE GUARANTEED MAXIMUM PRICE

**(GMP) WITH R. J. GRIFFIN CO. FOR TOWN
GREEN CONSTRUCTION WORK. (2006 SPLOST)**

County Manager Poe stated we previously entered into a contract with R. J. Griffin Co., for the Town Green Project. He said through a change order we will establish the Guaranteed Maximum Price (GMP). We have reviewed the budget for the project, and all of the different costs associated with it, including the work that we are proposing to do in-house to try to keep our costs down. He stated the Guaranteed Maximum Price that we are recommending to establish with R. J. Griffin is \$1,186,775.00.

Commissioner Lumsden made a MOTION to accept the Manager's recommendation and approve the Guaranteed Maximum Price (GMP) of \$1,186,775.00 with R. J. Griffin Co. for the Town Green Project. SECOND by Commissioner Whitefield. VOTING:

YES NO

Commissioner Bagwell
" Fricks
" Lumsden
" Whitefield
Chairman Mayes

Motion Carried

**3. APPROVE USE OF U. S. MARSHALL'S OFFICE
FUNDS FOR PURCHASE OF NEW COMPUTER
SERVER FOR POLICE DEPARTMENT'S IN-CAR
CAMERA OPERATION:**

County Manager Poe stated we have been given some funding from the U. S. Marshall's Office due to some cooperative work we did with them on some cases. He stated it should amount to a little over \$7,000.00. He said we have a need to upgrade a computer server for the Police Department's In-Car Camera Operation. He recommended amending the budget to use the U. S. Marshall's Office Funds to purchase the new server for the Police Department.

Commissioner Bagwell made a MOTION to approve the use of U. S. Marshall's Office Funds for the purchase of a new computer server for the Police Department's In-Car Camera Operation. SECOND by Commissioner Lumsden. VOTING:

YES NO

Commissioner Bagwell
" Fricks

" Lumsden
" Whitefield
Chairman Mayes

Motion Carried

4. APPROVE CHANGE ORDER #1 WITH DAVIDSON-SOUTHERN, INC. ON NORTH FLOYD PARK COMMUNITY CENTER PROJECT: (2006 SPLOST)

County Manager Poe stated we received a change order from Davidson-Southern, Inc., the contractor for the North Floyd Community Center. The total amount of the change order is \$26,731.43. The different items that comprised this change order were related to the allowance for permit fees, some modifications to utilities, the sewer line, to go total electric, HVAC, and work for putting additional footing size on the building. He recommended approval of Change Order #1 as presented.

Commissioner Lumsden made a MOTION to accept the Manager's recommendation and approve Change Order #1 with Davidson-Southern, Inc. on the North Floyd Park Community Center Project in the amount of \$26,731.43. SECOND by Commissioner Whitefield. VOTING:

YES NO

Commissioner Bagwell
" Fricks
" Lumsden
" Whitefield
Chairman Mayes

Motion Carried

5. APPROVE REQUEST FROM MIKE MATHEWS, AIRPORT MANAGER, TO AMEND EQUIPMENT. BUDGET TO PURCHASE NEW REFRIGERATOR:

County Manager Poe stated they have a request to amend the Airport Budget to allow them to purchase a new refrigerator. He stated the one that they currently have went out on them. He recommended approval of the budget amendment, at a cost not to exceed \$900.00.

Commissioner Bagwell made a MOTION to approve the request from Mike Mathews, Airport Manager, to amend the Equipment Budget to purchase a new refrigerator, at a cost not to exceed \$900.00. SECOND by Commissioner Fricks. VOTING:

YES NO

Commissioner Bagwell
" Fricks
" Lumsden
" Whitefield
Chairman Mayes

Motion Carried

4/5 VOTE REQUIRED

**6. APPROVE GROUNDWATER MONITORING CONTRACT
FOR BERRYHILL LANDFILL AND WALKER MOUNTAIN
LANDFILL WITH GOLDER ASSOCIATES, INC.:**

Commissioner Whitefield made a MOTION to add this item to the Agenda.
SECOND by Commissioner Lumsden. VOTING:

YES NO

Commissioner Bagwell
" Fricks
" Lumsden
" Whitefield
Chairman Mayes

Motion Carried

County Manager Poe stated the Joint Solid Waste Commission accepted a proposal to provide Groundwater Monitoring Services at Berryhill and Walker Mountain Landfill. He stated the staff recommended accepting the proposal from Golder Associates, Inc., who has been doing the monitoring for several years now, for two years at a total cost of \$129,028.00. This comes as a recommendation from the Joint Solid Waste Commission to the city and county that they approve the proposal submitted by Golder Associates, Inc. Funding will be through the Solid Waste fund.

Commissioner Fricks made a MOTION to accept the proposal from Golder Associates, Inc. for two years for Groundwater Monitoring Services at Berryhill and Walker Mountain Landfill at a total cost of \$129,028.00, as recommended by the Joint Solid Waste Commission, and authorize execution of any contract documents. SECOND by Commissioner Whitefield. VOTING:

YES NO

Commissioner Bagwell
" Fricks

" Lumsden
" Whitefield
Chairman Mayes

Motion Carried

ATTORNEY'S REPORT:

**1. ADOPT RESOLUTION TO AUTHORIZE EXECUTION
OF THIRD AVENUE (THE FORUM) PARKING DECK
MANAGEMENT AGREEMENT BETWEEN FLOYD
COUNTY, CITY OF ROME, AND DOWNTOWN
DEVELOPMENT AUTHORITY:**

County Attorney Manning stated they have a Resolution before them to authorize the execution of the Third Avenue Parking Deck Management Agreement. He stated that agreement is between Floyd County, the City of Rome, and the Downtown Development Authority.

Commissioner Whitefield made a MOTION to adopt the Resolution authorizing execution of the Third Avenue (The Forum) Parking Deck Management Agreement. SECOND by Commissioner Bagwell. VOTING:

YES NO

Commissioner Bagwell
" Fricks
" Lumsden
" Whitefield
Chairman Mayes

Motion Carried

**2. ADOPT RESOLUTION TO AUTHORIZE EXECUTION
OF AMENDMENT TO INTERGOVERNMENTAL
AGREEMENT BETWEEN FLOYD COUNTY AND
THE CITY OF ROME DATED AS OF THE 8TH DAY
OF APRIL 2008:**

County Attorney Manning stated they have a Resolution before them to authorize the execution of an amendment to an earlier Intergovernmental Agreement between the City of Rome and Floyd County concerning the City of Rome's obligations to Floyd County with respect to the parking deck and the county's guaranteeing of the bonds that were issued to construct the parking deck.

Commissioner Bagwell made a MOTION to adopt the Resolution to authorize execution of the Amendment to the Intergovernmental Agreement between

Floyd County and the City of Rome as presented. SECOND by Commissioner Lumsden. VOTING:

YES NO

Commissioner Bagwell
" Fricks
" Lumsden
" Whitefield
Chairman Mayes

Motion Carried

OTHER BUSINESS:

Chairman Mayes recognized the Leadership Rome participants in attendance.

ADJOURNMENT:

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

YES NO

Commissioner Bagwell
" Fricks
" Lumsden
" Whitefield
Chairman Mayes

Motion Carried

**FLOYD COUNTY BOARD OF
COMMISSIONERS**

JOHN MAYES, CHAIRMAN